

ESTTA Tracking number: **ESTTA1136382**

Filing date: **05/26/2021**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	SYNGENTA PARTICIPATIONS AG		
Entity	Aktiengesellschaft	Citizenship	Switzerland
Address	SCHWARZALDALLEE 215 BASEL, 4058 SWITZERLAND		
Attorney information	JOVAN N. JOVANOVIC THE WATSON IP GROUP, PLC 3133 HIGHLAND DR. SUITE 200 HUDSONVILLE, MI 49426 UNITED STATES Primary Email: docketing@watson-ip.com Secondary Email(s): jjovanovic@watson-ip.com , sstumpo@watson-ip.com , global.trademarks@syngenta.com 6167971000		
Docket Number	IPA211581		

Applicant Information

Application No.	90266151	Publication date	04/27/2021
Opposition Filing Date	05/26/2021	Opposition Period Ends	05/27/2021
Applicant	Meristem Crop Performance Group, LLC 12 VILLAGE POINTE DR POWELL, OH 43065 UNITED STATES		

Goods/Services Affected by Opposition


Class 001. First Use: 0 First Use In Commerce: 0
All goods and services in the class are opposed, namely: plant growth regulators for agricultural use; substances for regulating plant growth; plant growth nutrients for agricultural use

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	1251458	Application Date	03/11/1982
Registration Date	09/20/1983	Foreign Priority	NONE

		Date	
Word Mark	PRIME +		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 1982/01/05 First Use In Commerce: 1982/01/05 Chemical Plant Growth Regulator for theControl of Undesired Axillary Branchin- gof Tobacco Plants		

Attachments	73354140#TMSN.png(bytes) NoticeofOppositionIPA211581.pdf(277914 bytes)
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Signature	/s Jovan N. Jovanovic/
Name	Jovan N. Jovanovic
Date	05/26/2021

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Syngenta Participations AG

Opposer,

v.

Meristem Crop Performance Group, LLC

Applicant.

Opposition No. _____

Serial No.: 90/266,151

Mark: NUTRIPRIME

NOTICE OF OPPOSITION

Commissioner for Trademarks
P.O. BOX 1451
Alexandria, VA 22313-1451


Dear Sir or Madam:

Syngenta Participations AG (“Opposer”), a Aktiengesellschaft, organized under the laws of Switzerland, having an address of Schwarzwaldallee 215, Basel, 4058, Switzerland, believes it will be damaged by registration of U.S. Trademark Application Serial No. 90/266,151 (“Application”) for the mark NUTRIPRIME (“Applicant’s Mark”), filed on October 20, 2020, by Meristem Crop Performance Group, LLC, a Limited Company organized under the laws of Delaware having an address of 12 Village Pointe Dr., Powell, Ohio, 43065 United States (“Applicant”) and hereby opposes the same.

As grounds for opposition, it is alleged:

1. By the Application filed on October 20, 2020, Applicant seeks to obtain registration on the Principal Register for the trademark NUTRIPRIME for *plant growth regulators for agricultural use; substances for regulating plant growth; plant growth nutrients for agricultural use* in International Class 001. (“Applicant’s Goods”). The Application was filed based on Applicant’s bona fide intent to use the subject mark in commerce.

2. Opposer is a leading global agriculture company that helps improve global food security by enabling millions of farmers to make better use of available resources. Opposer’s goods support a broad array of applications, but not limited to, crop protection, healthy soil and better vegetable availability on the shelf.

3. Since at least as early as January 5, 1982, long before Applicant filed the Application, Opposer has provided and continues to provide its goods in connection with Opposer’s registered **Prime** , hereinafter referred to as PRIME + (“Opposer’s Mark”).

4. Opposer through substantial use and promotion, has acquired significant goodwill and consumer recognition in its PRIME + mark. Opposer’s Mark is strong and well-known.

5. To protect its substantial goodwill and investment in its PRIME + mark, in addition to any common law rights, Opposer is the owner of U.S. Registration No. 1251458 for *Chemical Plant Growth Regulator for the Control of Undesired Axillary Branching of Tobacco Plants* in International Class 005. Opposer first used the PRIME + Registration for over thirty-eight and a half (38.5) years before Applicant filed the Application. True and correct copies of the specifics of the PRIME + Registration obtained from the PTO’s TESS database is attached hereto as Exhibit A and made of record.

6. Hereinafter in the Notice of Opposition, the goods identified in Opposer's Federal registration as specified in Paragraph 5 above are valid, subsisting, unrevoked, and uncanceled. As such, they constitute *prima facie* evidence of the validity of the registered mark and of the registration thereof, Opposer's ownership of the PRIME + mark shown therein, and Opposer's exclusive right to use the registered mark in commerce in connection with the goods named therein, without condition or limitation. The Federal registration also constitutes notice to Applicant of Opposer's claim of ownership of the PRIME + mark shown therein, all as provided in Sections 7(b), 22 and 33(a) of the Trademark Act, as amended.

7. Further, Opposer's Federal registration as specified in Paragraph 5 above is incontestable. Section 15 of the Trademark Act, 15 U.S.C § 1065. Therefore, the registration constitutes conclusive evidence of the validity of the registered mark and of the registration of the mark, of Opposer's ownership of its mark, and of Opposer's exclusive right to use the registered mark in commerce as provided in Section 33 of the Lanham Act, 15 U.S.C. § 1115.

8. Opposer's first use date, filing date, and registration date for the Federal registration specified in Paragraph 5 substantially precede the Application's filing date. Accordingly, Applicant knew or should have known of Opposer's ownership, use and registration of the PRIME + mark prior to the filing date of the Application.

9. In addition to the protection afforded to Opposer by its Federal trademark registration, Opposer has extensive common law rights in its PRIME + mark in connection with the goods with which Opposer uses the PRIME + mark, including without limitation, Opposer's Goods, throughout the United States. Opposer has acquired such common law rights through long-standing, exclusive use of its PRIME + mark in interstate commerce for over thirty-eight

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