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TRADEMARK

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

In the matter of trademark application Serial No. 78/236,132
Filed April 10, 2003
For the mark NEXIDE
Published in the Official Gazette on August 10, 2004

NISSAN CHEMICAL INDUSTRIES, LTD.)
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Opposer,)
)
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)
)
v.)
)
CHEMINOVA A/S)
)
Applicant.)

Opposition No. _____

NOTICE OF OPPOSITION

Opposer, Nissan Chemical Industries, Ltd. (hereinafter "Nissan"), a corporation of Japan having a place of business at 3-7-1 Kanda Nishiki-cho, Chiyoda-ku, Tokyo, Japan, believes that it will be damaged by the registration of the mark NEXIDE for "insecticides for agricultural, household, commercial and industrial use", which is the subject of application no. 78/236,132 and hereby opposes same.

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The aforesaid application was filed April 10, 2003, and published in the Trademark Official Gazette of August 10, 2004 in International Class 5, and lists as the applicant Cheminova A/S (hereinafter "Applicant").

As grounds for the opposition, it is alleged that:

1. Applicant has applied to register the mark NEXIDE for "insecticides for agricultural, household, commercial and industrial use" in International Class 5.



12-07-2004

2. On information and belief, Applicant filed the application based on its intent to use the mark under Section 1(b), 15 U.S.C. §1051(b), and thus Applicant has not claimed use of the term NEXIDE as a mark or otherwise.

3. Nissan is the Owner and prior user, by itself and/or through a related company, of the following mark registered in the U.S. Patent and Trademark on the Principal Register for the recited goods:

NEXTER	Registration No. 1,863,027	insecticides for agricultural use, in International Class 5
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The foregoing registration is valid, incontestable and owned by Nissan.

4. Nissan is one of the world's foremost providers of insecticides and other chemicals and its insecticides for agricultural use are promoted to the public in close association with the NEXTER mark.

5. Nissan's use of the mark NEXTER has been continuous, exclusive, public and substantial since at least as early as November 8, 1993.

6. Nissan's Registration No. 1,863,027 was filed on May 23, 1991, and has a nationwide constructive use date of May 23, 1991, based on Section 7(c), 15 U.S.C. §1057(c).

7. Nissan's aforementioned NEXTER mark constitutes the lawful, valued, subsisting and exclusive property of Nissan and as a result of the high quality of Nissan's products and sales, promotion and advertising thereof, the aforementioned mark has become an intrinsic and essential part of the valuable goodwill and property of Nissan, and is recognized by consumers and the trade as identifying and distinguishing Nissan's products and signifying products of exceptional quality.

8. The NEXIDE mark sought to be registered by Applicant is highly similar to Nissan's NEXTER mark.

9. The goods identified by Applicant's NEXIDE mark have identical and/or overlapping uses to Nissan's insecticides.

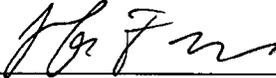
10. Applicant's mark NEXIDE as used to identify insecticides for agricultural, household, commercial and industrial use so resembles Nissan's NEXTER mark for its insecticides as to be likely to cause confusion or mistake or to deceive purchasers familiar with Nissan's mark into believing Applicant's goods originate with Nissan and/or are endorsed or sponsored by Nissan, and/or that Applicant and/or its NEXIDE products are otherwise affiliated with Nissan and its products.

11. Applicant's use and registration of the NEXIDE mark will cause at least a likelihood of confusion, mistake and/or deception as to the source, origin, sponsorship, approval and/or the nature of Applicant's goods and/or as to the affiliation, connection and/or association of Applicant with Nissan all to the great and irreparable damage to the business, reputation and/or goodwill of Nissan.

WHEREFORE, Opposer prays that this opposition be sustained and that Applicant be denied registration of the mark set forth in its Application No. 78/236,132.

A duplicate copy of this Notice of Opposition and the required filing fee are submitted herewith.

NISSAN CHEMICALS INDUSTRIES, LTD.

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