

ESTTA Tracking number: **ESTTA73650**

Filing date: **03/30/2006**

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	Wyeth
Granted to Date of previous extension	04/02/2006
Address	5 Giralda Farms Madison, NJ 07940 UNITED STATES

Attorney information	Michele A. Farber Wyeth 5 Giralda Farms Madison, NJ 07940 UNITED STATES farberm@wyeth.com Phone:973-660-5978
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### Applicant Information

Application No	78489850	Publication date	10/04/2005
Opposition Filing Date	03/30/2006	Opposition Period Ends	04/02/2006
Applicant	Generation Plus, Inc. 4148 East Rockledge Road PHOENIX, AZ 85044 UNITED STATES		

### Goods/Services Affected by Opposition

Class 005. All goods and services in the class are opposed, namely: Nutritional and dietary supplements
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Attachments	Fibercol Opposition_1.pdf ( 3 pages )
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Signature	/Michele A. Farber/
Name	Michele A. Farber
Date	03/30/2006

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

In the Matter of Application Serial Number 78/489850  
Published in the Official Gazette on October 4, 2005

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WYETH,

Opposer,

v.

GENERATION PLUS, INC.,

Applicant.

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Opposition No.:

Assistant Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3513

NOTICE OF OPPOSITION

Wyeth ("Opposer"), a corporation duly organized and existing under the laws of the State of Delaware with a principal place of business at Five Giralda Farms, Madison, New Jersey 07940, believes that it will be damaged by the registration of Trademark Application Serial No. 78/489850 ("Applicant's Mark") and hereby opposes the same pursuant to Section 13 of the Trademark Act of July 5, 1946, as amended, 15 U.S.C. §1063 and Rule 2.101 of the Trademark Rules of Practice.

Wyeth has obtained the necessary extensions of time to file this Notice of Opposition and such Notice is timely made.

As grounds for opposition, it is alleged that:

1. Wyeth is now, and for many years has been, engaged in the manufacture, distribution and sale of a wide variety of consumer healthcare products, including bulk laxatives and nutritional and dietary supplements. Wyeth's products are sold in commerce throughout the United States.
2. Wyeth is the exclusive distributor of FIBERCON products in the United States, and the exclusive user in the United States of the mark as shown in U.S. Trademark Registration No.1423579 for the FIBERCON mark for "bulk laxative, in International Class 5" registered on January 6, 1987, which registration is owned by Wyeth's wholly-owned subsidiary, Wyeth Holdings Corporation. This registration is currently valid, subsisting and in full force and effect, and is incontestable pursuant to 15 U.S.C. § 1065.
3. Since prior to the filing of the application herein opposed, the FIBERCON mark has become well known and has developed strong commercial magnetism and become famous by virtue of the lengthy and widespread use of the FIBERCON mark, and sales, advertising and promotion of products bearing the FIBERCON mark.
4. As evidenced by publication in the Official Gazette dated October 4, 2005, Applicant seeks to register the mark FIBERCOL for "nutritional and dietary supplements, in International Class 5."
5. Applicant's Mark so resembles the previously used and registered FIBERCON mark that it is likely to cause confusion, to cause mistake or to deceive under

Trademark Act Section 2(d), 15 U.S.C. §1052 (d), with consequent injury to Wyeth, the consuming public and the trade.

6. Additionally, Applicant's mark, when used in connection with its recited goods, is likely to cause dilution of the distinctive quality of the famous FIBERCON mark under Trademark Act Section 2(f); 15 U.S.C. §1052(f).

7. For the above reasons, Wyeth will be damaged by the registration of Applicant's Mark.

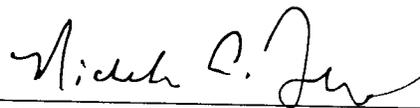
WHEREFORE, Wyeth prays that this opposition be sustained and that Application Serial No. 78/489850 be denied registration.

Please recognize Michele A. Farber and Bret I. Parker, both members of the Bar of the State of New York, as the attorneys for Opposer Wyeth in this proceeding. It is further requested that all correspondence relating thereto be addressed to Michele A. Farber, Trademark Counsel, Five Giralda Farms, Madison, New Jersey 07940, [farberm@wyeth.com](mailto:farberm@wyeth.com).

Wyeth requests that the requisite opposition fee be charged to Deposit Account No. 01-1300 of Wyeth.

Dated: 3/30/06

WYETH



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