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

Proceeding	91199752
Party	Defendant Afgritech Ltd.
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Attachments	Answer to Amended Notice of Opposition.pdf ( 4 pages )(34021 bytes )

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

Evonik Degussa GmbH )  
Opposer, )  
v. ) Opposition No. 91199752  
Afgritech Ltd. )  
Applicant. )

**APPLICANT’S ANSWER TO THE AMENDED AND RESTATED  
NOTICE OF OPPOSITION**

COMES NOW Applicant, Afgritech Ltd. (hereinafter “Applicant”) and answering the Amended and Restated Notice of Opposition herein, admits, denies and alleges as follows:

As to the first two unnumbered paragraphs, Applicant denies that Opposer would be damaged by the registration of the mark AMINOGREEN as set forth in Application Serial No. 85/096,047 and requests that the opposition be dismissed.

Here follows Applicant’s answers to the grounds of opposition as set forth in the numbered paragraphs in the Notice of Opposition:

1. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 1 of the Amended and Restated Notice of Opposition and therefore denies the same, leaving Opposer to its proofs.

2. Applicant admits that application serial no. 79/083,600 for the mark AMINORED has been filed identifying Opposer as the applicant thereof and that the 79/083,600 application lists goods and services in International Classes 1, 9, 31, 41 and 42, but Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations concerning whether

Opposer is currently the owner thereof as set forth in paragraph 2 of the Amended and Restated Notice of Opposition, leaving Opposer to its proofs, and denies the allegations as to the identification of services set forth in Class 41 in paragraph 2 of the Amended and Restated Notice of Opposition.

3. Applicant admits the allegations of paragraph 3 of the Amended and Restated Notice of Opposition.

4. Applicant is without information sufficient to form a belief as to the truth of the allegations of paragraph 4 of the Amended and Restated Notice of Opposition, and therefore denies the same, leaving Opposer to its proofs.

5. Applicant denies the allegations of paragraph 5 of the Amended and Restated Notice of Opposition.

6. Applicant admits the allegations of paragraph 6 of the Amended and Restated Notice of Opposition.

7. Applicant denies the allegations of paragraph 7 of the Amended and Restated Notice of Opposition.

8. Applicant denies the allegations of paragraph 8 of the Amended and Restated Notice of Opposition.

9. Applicant admits that the goods associated with its AMINOGREEN mark are highly similar to the goods set forth in International Class 31 of Opposer's application serial no. 79/083,600 but otherwise denies the allegations of paragraph 9 of the Amended and Restated Notice of Opposition.

10. Applicant admits that it has proposed the AMINOGREEN mark to identify its products as set forth in application serial no. 85/096,047 and that both the Applicant's

AMINOGREEN mark and the Opposer's proposed AMINORED mark as applied to the goods in International Class 31 set forth in application ser. no. 79/083,600 are associated with animal food products, but Applicant otherwise denies the allegations of paragraph 10 of the Amended and Restated Notice of Opposition.

11. Applicant denies the allegations of paragraph 11 of the Amended and Restated Notice of Opposition.

12. Applicant denies the allegations of paragraph 12 of the Amended and Restated Notice of Opposition.

13. Applicant is without information sufficient to form a belief as to whether the attachments to the Notice of Opposition show current title and status of application ser. No. 79/083,600 and therefore denies the same, leaving Opposer to its proofs.

14. Applicant denies the allegations of paragraph 14 of the Amended and Restated Notice of Opposition.

#### **AFFIRMATIVE DEFENSES**

15. The Amended and Restated Notice of Opposition fails to state a claim for which relief may be granted.

16. Applicant is the owner of U.S. Trademark Registration No. 3,905,808 for the mark AMINOMAX, and by virtue of Applicant's prior use and registration thereof, as well as other third party uses and registrations, Opposer is not entitled to claim likelihood of confusion based on a scope of rights in its pending application extending to all marks with the descriptive "amino" prefix for the goods for which applicant has sought registration under its current pending application for AMINOGREEN..

WHEREFORE, Applicant prays that the Opposition be dismissed and that Applicant's mark be passed to allowance.

Respectfully submitted,

/s/Cheryl L. Burbach  
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Attorneys for Applicant Afgritech Ltd.

### **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was deposited with the United States Postal Service as first class mail, postage prepaid, on this 23rd day of May, 2012 to:

Scott D. Woldow, Esq.  
Smith, Gambrell & Russell, LLP  
1130 Connecticut Avenue, N.W., Suite 1130  
Washington, District of Columbia 20036

Attorneys for Opposer  
Evonik Degussa GmbH

/s/Cheryl L. Burbach