

ESTTA Tracking number: **ESTTA533785**

Filing date: **04/23/2013**

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

| | |
|------------------------|--|
| Proceeding | 91199752 |
| Party | Plaintiff Evonik Degussa GmbH |
| Correspondence Address | ELIZABETH G. BORLAND and SCOTT D. WOLDOW SMITH GAMBRELL & RUSSELL, LLP Suite 3100-Promenade,1230 Peachtree Street, N.E. Atlanta, GA 30309 UNITED STATES eborland@sgrlaw.com, sdwoldow@sgrlaw.com, mbedsole@sgrlaw.com |
| Submission | Other Motions/Papers |
| Filer's Name | Elizabeth G. Borland |
| Filer's e-mail | eborland@sgrlaw.com, sdwoldow@sgrlaw.com, mbedsole@sgrlaw.com |
| Signature | /Elizabeth G. Borland/ |
| Date | 04/23/2013 |
| Attachments | Evonik Afgritech Opp 1st Not of Rel.pdf (4 pages)(50136 bytes) Evonik Afgritech Opp 1st Not of Rel - Exhibit 1.pdf (6 pages)(122620 bytes) Evonik Afgritech Opp 1st Not of Rel - Exhibit 2.pdf (83 pages)(2500741 bytes) Evonik Afgritech Opp 1st Not of Rel - Exhibit 3.pdf (14 pages)(241003 bytes) Evonik Afgritech Opp 1st Not of Rel - Exhibit 4.pdf (18 pages)(520107 bytes) evonik Afgritech Opp 1st Not of Rel - Exhibit 5.pdf (11 pages)(171727 bytes) evonik Afgritech Opp 1st Not of Rel - Exhibit 6.pdf (11 pages)(202901 bytes) evonik Afgritech Opp 1st Not of Rel - Exhibit 7.pdf (5 pages)(38557 bytes) evonik Afgritech Opp 1st Not of Rel - Exhibit 8.pdf (4 pages)(54581 bytes) Evonik Afgritech Opp 1st Not of Rel - Exhibit 9.pdf (4 pages)(32851 bytes) Evonik Afgritech Opp 1st Not of Rel - Exhibit 10.pdf (6 pages)(91539 bytes) |

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

EVONIK DEGUSSAGmbH,

Opposer,

v.

AFGRITECH, LTD.,

Applicant.

Opposition No. 91199752

Mark: AMINOGREEN

Serial No. 85/096,047

Filed: July 29, 2010

Published: January 11, 2011

OPPOSER'S FIRST NOTICE OF RELIANCE

Opposer Evonik Degussa GmbH, pursuant to Trademark Rules 2.120(j) and 2.122(e) of the Trademark Rules of Practice, 37 C.F.R. §§ 2.120 and 2.122, hereby introduces into evidence and makes of record the following materials in support of its opposition to registration of the AMINOGREEN mark:

A. Opposer's Application

Opposer introduces into evidence the record of Status and Title for its Application Serial No. 79/083,600 of the mark AMINORED, filed under the Madrid Protocol, with a filing priority date of December 8, 2009, a copy of which is attached to this Notice as Exhibit 1. Opposer also introduces all documents from the prosecution history file of Application Serial No. 79/083,600, copies of which are attached to this Notice as Exhibit 2. These materials are official records of the Patent and Trademark Office and are available to the general public from the Trademark Status & Document Retrieval section of the Patent

and Trademark Office website. These records are offered to show Opposer's priority in the AMINORED mark for the goods and services listed in the application in the United States.

B. Discovery Requests and Responses

Opposer introduces the following discovery requests and responses, copies of which are attached as numbered Exhibits as indicated:

| EXHIBIT | DOCUMENT NAME | DATE SERVED | REQUESTS AND RESPONSES OFFERED INTO EVIDENCE |
|---------|---|-------------------|--|
| 3 | Evonik Degussa's First Set of Requests for Production of Documents | November 16, 2011 | 1, 9, 11, 13, 15, 21, 23, 24, 26, 28, 30, 32, 34, 36, 38 |
| 4 | Afgritech's Objections and Responses to Opposer's First Set of Requests for Production of Documents | December 21, 2011 | 1, 9, 11, 13, 15, 21, 23, 24, 26, 28, 30, 32, 34, 36, 38 |
| 5 | Evonik Degussa's First Set of Requests for Admission | January 24, 2012 | 1-32 |
| 6 | Afgritech's Answers to Evonik's First Set of Requests for Admission to Applicant | March 2, 2012 | 1-32 |
| 7 | Opposer Evonik Degussa GmbH's Second Set of Requests for Admission to Applicant Afgritech Ltd. | October 30, 2012 | 33-35 |

| | | | |
|----|--|------------------|-------|
| 8 | Afgritech's Objections and Responses to Opposer's Second Set of Requests for Admission to Applicant Afgritech Ltd. | December 4, 2012 | 33-35 |
| 9 | Opposer Evonik Degussa GmbH's Third Set of Interrogatories to Applicant Afgritech Ltd. | January 2, 2013 | 59 |
| 10 | Afgritech's Objections and Responses to Opposer's Third Set of Interrogatories to Applicant Afgritech Ltd. | February 8, 2013 | 59 |

This 23rd day of April, 2013.

Respectfully submitted,

/s Elizabeth G. Borland

Elizabeth G. Borland
SMITH, GAMBRELL & RUSSELL, LLP
Promenade, Suite 3100
1230 Peachtree Street, N.E.
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(404) 815-3645
Fax: (404) 685-6945
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Scott D. Woldow
SMITH, GAMBRELL & RUSSELL, LLP
1130 Connecticut Ave., N.W.
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Washington, D.C. 20036
(202) 263-4300
Fax: (202) 263-4329
Email: sdwoldow@sgrlaw.com

Counsel for Opposer Evonik Degussa GmbH

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing OPPOSER'S FIRST NOTICE OF RELIANCE was on this day served upon all parties pursuant to 37 C.F.R. § 2.119(b)(4) by first-class mail, addressed as follows:

Thomas H. Van Hoozer
Cheryl Burbach
Hovey Williams LLP
10801 Mastin Blvd., Suite 1000
Overland Park, KS 66210

Pursuant to 37 C.F.R. § 2.119(b)(6) and to the July 21, 2011 letter between counsel the parties, a courtesy copy was also sent by email.

This 23rd day of April, 2013.

s/ Elizabeth G. Borland
Elizabeth G. Borland

EXHIBIT 1

Generated on: This page was generated by TSDR on 2013-04-15 16:53:07 EDT

Mark: AMINORED

AMINORED

US Serial Number: 79083600

Application Filing Date: Apr. 10, 2010

Register: Principal

Mark Type: Trademark, Service Mark

Status: An opposition after publication is pending at the Trademark Trial and Appeal Board. For further information, see TTABVue on the Trademark Trial and Appeal Board web page.

Status Date: Jun. 22, 2011

Publication Date: May 24, 2011

Mark Information

Mark Literal Elements: AMINORED

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Related Properties Information

International Registration Number: 1041517

International Registration Date: Apr. 10, 2010

Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of
- Asterisks "*" identify additional (new) wording in the goods/services.

For: Chemicals used in industry and science, as well as in agriculture, horticulture and forestry except for fungicides, herbicides, insecticides, and parasiticides; chemicals for use in industry; Chemicals used in industry, namely, chemicals for industrial purposes; chemicals for use in industry and science; chemical substances for preserving foodstuffs

International Class: 001 - Primary Class

U.S. Class: 001, 005, 006, 010, 026, 046

Class Status: ACTIVE

Basis: 66(a)

For: Computer software for use in estimating amino acid content in feedstuff for livestock and in formulating livestock diets in the field of animal nutrition; Diagnostic apparatus for testing feed ingredients; Measuring apparatus, namely, technical measuring, testing and checking apparatus and instruments for measuring, testing and checking feed ingredient raw material and rapid evaluation of digestibility in heat processed raw materials; Testing and food analysis apparatus, namely, apparatus for testing gas, liquid and solids for feed ingredient analysis; Testing and food analysis apparatus, namely, apparatus for testing gas, liquid and solids to detect heat damage in a processed raw material and to adjust amino acid digestibility in order to prevent performance depression of animals fed ingredients; Testing and food analysis apparatus, namely, apparatus for testing animal nutrition liquids and solids; Testing and food analysis apparatus, namely, apparatus for testing gas, liquid and solid raw materials for amino acid content; Scientific instruments, namely, electronic analyzers for testing feed ingredient raw material quality

International Class: 009 - Primary Class

U.S. Class: 021, 023, 026, 036, 038

Class Status: ACTIVE

Basis: 66(a)

For: Foodstuffs for animals; additives to fodder, not for medical purposes

International Class: 031 - Primary Class

U.S. Class: 001, 046

Class Status: ACTIVE

Basis: 66(a)

For: Education and instruction, namely, conducting conferences, congresses, symposiums and colloquiums in the field of feedstuff and animal nutrition; entertainment in the nature of conducting entertainment exhibitions in the nature of animal exhibitions and animal nutrition festivals; teaching and continuing professional education for experts in the field of feedstuff and animal nutrition; arranging and conducting of conferences, congresses, symposiums and colloquiums in the field of animal nutrition and feedstuff; organization of exhibitions for cultural and/or educational purposes; publication of books, newspapers and periodicals; arranging and conducting of seminars and workshops, especially for experts in field of animal nutrition

International Class: 041 - Primary Class

U.S. Class: 100, 101, 107

Class Status: ACTIVE

Basis: 66(a)

For: Scientific and technological services and research and design in the field of animal nutrition, feedstuff, and chemicals; industrial

analysis and research services in the field of animal nutrition and feedstuff; design and development of computer hardware and software, in particular computer programs, especially as a database for amino acid analysis in feedstuffs for animal nutrition; computer software consultancy; technical consulting services for the animal feed industry about scientific research in the use of animal feed ingredients; chemistry consulting services; bacteriological and/or chemical laboratory research services; physics research; Research, namely, materials testing, analyzing, and evaluation; Industrial analysis, namely, product testing; Scientific and technological services, namely, scientific research, analysis and testing in the fields of feed ingredient raw material and amino acid digestibility; Research, namely, testing of raw materials and feed additives; Industrial analysis, namely, testing or research on machines, apparatus and instruments for raw materials and feed additives

International Class: 042 - Primary Class

U.S Class: 100, 101

Class Status: ACTIVE

Basis: 66(a)

Basis Information (Case Level)

Filed Use: No

Currently Use: No

Amended Use: No

Filed ITU: No

Currently ITU: No

Amended ITU: No

Filed 44D: No

Currently 44D: No

Amended 44D: No

Filed 44E: No

Currently 44E: No

Amended 44E: No

Filed 66A: Yes

Currently 66A: Yes

Filed No Basis: No

Currently No Basis: No

Current Owner(s) Information

Owner Name: Evonik Degussa GmbH

Owner Address: Rellinghauser Straße 1-11
45128 Essen
GERMANY

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where Organized: GERMANY

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Scott D. Woldow

Docket Number: 032301.673

Attorney Primary Email Address: sdwoldow@sgrlaw.com

Attorney Email Authorized: Yes

Correspondent

Correspondent Name/Address: SCOTT D WOLDOW, J. RODGERS LUNSFORD III
SMITH GAMBRELL & RUSSELL LLP
1130 CONNECTICUT AVE NW
WASHINGTON, DISTRICT OF COLUMBIA 20036
UNITED STATES

Phone: 202-263-4300

Fax: 202-263-4329

Correspondent e-mail: sdwoldow@sgrlaw.com

Correspondent e-mail Authorized: Yes

Domestic Representative

Domestic Representative Name: Scott D. Woldow

Phone: 202-263-4300

Fax: 202-263-4329

Domestic Representative e-mail: sdwoldow@sgrlaw.com

Domestic Representative e-mail Authorized: Yes

Prosecution History

| Date | Description | Proceeding Number |
|---------------|---|-------------------|
| Aug. 06, 2011 | REFUSAL PROCESSED BY IB | |
| Jul. 12, 2011 | NOTIFICATION PROCESSED BY IB | |
| Jun. 22, 2011 | OPPOSITION INSTITUTED NO. 999999 | 200334 |
| Jun. 21, 2011 | OPPOSITION NOTICE (IB REFUSAL) SENT TO IB | |
| Jun. 21, 2011 | OPPOSITION NOTICE (IB REFUSAL) CREATED | |
| Jun. 20, 2011 | OPPOSITION PAPERS RECEIVED AT TTAB | |
| May 24, 2011 | PUBLISHED FOR OPPOSITION | |
| May 11, 2011 | ATTORNEY REVOKED AND/OR APPOINTED | |

| | | |
|---------------|--|-------|
| May 11, 2011 | TEAS REVOKE/APPOINT ATTORNEY RECEIVED | |
| May 04, 2011 | NOTIFICATION OF POSSIBLE OPPOSITION SENT TO IB | |
| May 04, 2011 | NOTICE OF START OF OPPOSITION PERIOD CREATED, TO BE SENT TO IB | |
| May 04, 2011 | NOTICE OF PUBLICATION | |
| Apr. 20, 2011 | LAW OFFICE PUBLICATION REVIEW COMPLETED | 68171 |
| Apr. 19, 2011 | APPROVED FOR PUB - PRINCIPAL REGISTER | |
| Apr. 19, 2011 | TEAS/EMAIL CORRESPONDENCE ENTERED | 68171 |
| Apr. 19, 2011 | CORRESPONDENCE RECEIVED IN LAW OFFICE | 68171 |
| Apr. 18, 2011 | TEAS RESPONSE TO OFFICE ACTION RECEIVED | |
| Mar. 18, 2011 | NON-FINAL ACTION MAILED | |
| Mar. 17, 2011 | NON-FINAL ACTION WRITTEN | 76986 |
| Jan. 24, 2011 | TEAS/EMAIL CORRESPONDENCE ENTERED | 68171 |
| Jan. 24, 2011 | CORRESPONDENCE RECEIVED IN LAW OFFICE | 68171 |
| Jan. 19, 2011 | ASSIGNED TO LIE | 68171 |
| Jan. 18, 2011 | TEAS RESPONSE TO OFFICE ACTION RECEIVED | |
| Aug. 06, 2010 | REFUSAL PROCESSED BY IB | |
| Jul. 16, 2010 | APPLICATION FILING RECEIPT MAILED | |
| Jul. 15, 2010 | NON-FINAL ACTION MAILED - REFUSAL SENT TO IB | |
| Jul. 15, 2010 | REFUSAL PROCESSED BY MPU | 68359 |
| Jul. 15, 2010 | NON-FINAL ACTION (IB REFUSAL) PREPARED FOR REVIEW | |
| Jul. 14, 2010 | NON-FINAL ACTION WRITTEN | 76986 |
| Jul. 12, 2010 | ASSIGNED TO EXAMINER | 76986 |
| Jul. 12, 2010 | NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM | |
| Jul. 09, 2010 | SN ASSIGNED FOR SECT 66A APPL FROM IB | |

International Registration Information (Section 66a)

| | |
|---|---|
| International Registration Number: 1041517 | International Registration Date: Apr. 10, 2010 |
| Priority Claimed Flag: Yes | Date of Section 67 Priority Claim: Dec. 08, 2009 |
| Intl. Registration Status: REQUEST FOR EXTENSION OF PROTECTION PROCESSED | Date of International Registration Status: Jul. 09, 2010 |
| Notification of Designation Date: Jul. 08, 2010 | Date of Automatic Protection: Jan. 08, 2012 |
| First Refusal Flag: Yes | |

TM Staff and Location Information

| | |
|--|--|
| TM Staff Information | |
| TM Attorney: OLANDRIA, WARREN L | Law Office Assigned: LAW OFFICE 112 |
| File Location | |
| Current Location: PUBLICATION AND ISSUE SECTION | Date in Location: Apr. 20, 2011 |

Proceedings

Summary

Number of Proceedings: 2

Type of Proceeding: Opposition

Proceeding Number: 91200334 **Filing Date:** Jun 20, 2011

Status: Pending **Status Date:** Jun 20, 2011

Interlocutory Attorney: JENNIFER KRISP

Defendant

Name: Evonik Degussa GmbH

Correspondent Address: SCOTT D WOLDOW, J. RODGERS LUNSFORD III
SMITH GAMBRELL & RUSSELL LLP
1130 CONNECTICUT AVE NW

WASHINGTON DC , 20036
UNITED STATES

Correspondent e-mail: sdwoldow@sgrlaw.com , rlunsford@sgrlaw.com

Associated marks

| Mark | Application Status | Serial Number | Registration Number |
|----------|--------------------|-----------------|---------------------|
| AMINORED | Opposition Pending | <u>79083600</u> | |

Plaintiff(s)

Name: Afgritech Ltd.

Correspondent Address: THOMAS H VAN HOOZER
HOVEY WILLIAMS LLP
10801 MASTIN BLVD , SUITE 1000
OVERLAND PARK KS , 66210
UNITED STATES

Correspondent e-mail: tvh@hoveywilliams.com , cb@hoveywilliams.com , litigation@hoveywilliams.com

Associated marks

| Mark | Application Status | Serial Number | Registration Number |
|----------|--------------------|-----------------|---------------------|
| AMINOMAX | Registered | <u>78917853</u> | <u>3905808</u> |

Prosecution History

| Entry Number | History Text | Date | Due Date |
|--------------|--|--------------|--------------|
| 1 | FILED AND FEE | Jun 20, 2011 | |
| 2 | NOTICE AND TRIAL DATES SENT; ANSWER DUE: | Jun 22, 2011 | Aug 01, 2011 |
| 3 | PENDING, INSTITUTED | Jun 22, 2011 | |
| 4 | P'S MOTION TO CONSOLIDATE | Jun 30, 2011 | |
| 5 | ANSWER | Jul 26, 2011 | |
| 6 | STIPULATED PROTECTIVE ORDER | Aug 09, 2011 | |
| 7 | CONSOLIDATED; TRIAL DATES RESET | Aug 11, 2011 | |
| 8 | CHANGE OF CORRESPONDENCE ADDRESS | May 02, 2012 | |

Type of Proceeding: Opposition

Proceeding Number: 91199752

Filing Date: May 11, 2011

Status: Pending

Status Date: May 11, 2011

Interlocutory Attorney: BENJAMIN U OKEKE

Defendant

Name: Afgritech Ltd.

Correspondent Address: THOMAS H VAN HOOZER
HOVEY WILLIAMS LLP
10801 MASTIN BLVD , SUITE 1000
KANSAS CITY MO , 66210
UNITED STATES

Correspondent e-mail: tvh@hoveywilliams.com , cb@hoveywilliams.com , litigation@hoveywilliams.com

Associated marks

| Mark | Application Status | Serial Number | Registration Number |
|------------|--------------------|-----------------|---------------------|
| AMINOGREEN | Opposition Pending | <u>85096047</u> | |

Plaintiff(s)

Name: Evonik Degussa GmbH

Correspondent Address: ELIZABETH G. BORLAND and SCOTT D. WOLDOW
SMITH GAMBRELL & RUSSELL, LLP
Suite 3100-Promenade, 1230 Peachtree Street, N.E.
Atlanta GA , 30309
UNITED STATES

Correspondent e-mail: eborland@sgrlaw.com , sdwoldow@sgrlaw.com , mbedsole@sgrlaw.com

Associated marks

| Mark | Application Status | Serial Number | Registration Number |
|----------|--------------------|-----------------|---------------------|
| AMINORED | Opposition Pending | <u>79083600</u> | |

Prosecution History

| Entry Number | History Text | Date | Due Date |
|--------------|--------------|------|----------|
|--------------|--------------|------|----------|

| | | | |
|----|--|--------------|--------------|
| 1 | FILED AND FEE | May 11, 2011 | |
| 2 | NOTICE AND TRIAL DATES SENT; ANSWER DUE: | May 11, 2011 | Jun 20, 2011 |
| 3 | PENDING, INSTITUTED | May 11, 2011 | |
| 4 | ANSWER | Jun 20, 2011 | |
| 5 | P'S MOTION TO CONSOLIDATE | Jun 30, 2011 | |
| 6 | CONSOLIDATED; TRIAL DATES RESET | Aug 11, 2011 | |
| 7 | P'S MOTION TO AMEND PLEADING/AMENDED PLEADING | Apr 17, 2012 | |
| 8 | P'S MOTION FOR SUMMARY JUDGMENT | Apr 17, 2012 | |
| 9 | P'S MOTION FOR SUMMARY JUDGMENT | Apr 18, 2012 | |
| 10 | D'S OPPOSITION/RESPONSE TO MOTION | May 01, 2012 | |
| 11 | SUSPENDED PENDING DISP OF OUTSTNDNG MOT | May 02, 2012 | |
| 12 | CHANGE OF CORRESPONDENCE ADDRESS | May 02, 2012 | |
| 13 | CONFIDENTIAL PL'S MOTION FOR SJ | May 14, 2012 | |
| 14 | D'S OPPOSITION/RESPONSE TO MOTION | May 22, 2012 | |
| 15 | D'S OPPOSITION/RESPONSE TO MOTION | May 22, 2012 | |
| 16 | Confidential Defendant's Opposition/Response to Motion | May 22, 2012 | |
| 17 | Confidential Defendant's Opposition/Response to Motion | May 22, 2012 | |
| 18 | ANSWER | May 23, 2012 | |
| 19 | Other Motions/Papers | Jun 07, 2012 | |
| 20 | P'S REPLY IN SUPPORT OF MOTION | Jun 07, 2012 | |
| 21 | PL'S MOT. FOR SUMM. JUDGMENT DENIED | Aug 14, 2012 | |
| 22 | D'S MOTION TO JOIN/SUBSTITUTE PARTY | Oct 10, 2012 | |
| 23 | STIPULATION FOR AN EXTENSION OF TIME | Oct 10, 2012 | |
| 24 | STIPULATION FOR AN EXTENSION OF TIME | Dec 13, 2012 | |
| 25 | EXTENSION OF TIME GRANTED | Dec 26, 2012 | |
| 26 | CHANGE OF CORRESPONDENCE ADDRESS | Jan 02, 2013 | |

EXHIBIT 2

NOTICE THAT TRANSACTION HAS BEEN PROCESSED BY IB

SERIAL NUMBER: 79083600

The table below presents the data as entered.

| Input Field | Entered |
|-----------------------------------|----------------------|
| INTERNATIONAL REGISTRATION NUMBER | 1041517 |
| EFFECTIVE DATE OF MODIFICATION | 06/21/2011 |
| IB DOCUMENT ID | 609977201 |
| OFFICE REFERENCE | 79083600 |
| TRANSACTION TYPE | RFNT - Total Refusal |

NOTICE THAT TRANSACTION HAS BEEN PROCESSED BY IB

SERIAL NUMBER: 79083600

The table below presents the data as entered.

| Input Field | Entered |
|-----------------------------------|---------------------------|
| INTERNATIONAL REGISTRATION NUMBER | 1041517 |
| EFFECTIVE DATE OF MODIFICATION | 06/24/2011 |
| IB DOCUMENT ID | 601178901 |
| OFFICE REFERENCE | 79083600 |
| TRANSACTION TYPE | GPN - Grant of Protection |

OPPOSITION FILED

The table below presents the data as entered.

| Input Field | Entered |
|--|---|
| IDENTIFICATION SECTION | |
| INTERNATIONAL REGISTRATION NUMBER | 1041517 |
| OFFICE REFERENCE | 79083600 |
| ORIGINAL LANGUAGE CODE | ENGLISH |
| GOODS AND SERVICES SECTION | |
| NICE CLASS NUMBER | 01 |
| LIMITED LIST | List limited to |
| GOODS AND SERVICE TERMS IN ORIGINAL LANGUAGE | Chemicals used in industry and science, as well as in agriculture, horticulture and forestry except for fungicides, herbicides, insecticides, and parasiticides; chemicals for use in industry; Chemicals used in industry, namely, chemicals for industrial purposes; chemicals for use in industry and science; chemical substances for preserving foodstuffs |
| NICE CLASS NUMBER | 09 |
| LIMITED LIST | List limited to |
| GOODS AND SERVICE TERMS IN ORIGINAL LANGUAGE | Computer software for use in estimating amino acid content in feedstuff for livestock and in formulating livestock diets in the field of animal nutrition; Diagnostic apparatus for testing feed ingredients; Measuring apparatus, namely, technical measuring, testing and checking apparatus and instruments for measuring, testing and checking feed ingredient raw material and rapid evaluation of digestibility in heat processed raw materials; Testing and food analysis apparatus, namely, apparatus for testing gas, liquid and solids for feed ingredient analysis; Testing and food analysis apparatus, namely, apparatus for testing gas, liquid and solids to detect heat damage in a processed raw material and to adjust amino acid digestibility in order to prevent performance depression of animals fed ingredients; Testing and food analysis apparatus, namely, apparatus for testing animal nutrition liquids and solids; Testing and food analysis apparatus, namely, apparatus for testing gas, liquid and solid raw materials for amino acid content; Scientific instruments, namely, electronic analyzers for testing feed ingredient raw material quality |

| | |
|--|--|
| NICE CLASS NUMBER | 31 |
| LIMITED LIST | List limited to |
| GOODS AND SERVICE TERMS IN ORIGINAL LANGUAGE | Foodstuffs for animals; additives to fodder, not for medical purposes |
| NICE CLASS NUMBER | 41 |
| LIMITED LIST | List limited to |
| GOODS AND SERVICE TERMS IN ORIGINAL LANGUAGE | Education and instruction, namely, conducting conferences, congresses, symposiums and colloquiums in the field of feedstuff and animal nutrition; entertainment in the nature of conducting entertainment exhibitions in the nature of animal exhibitions and animal nutrition festivals; teaching and continuing professional education for experts in the field of feedstuff and animal nutrition; arranging and conducting of conferences, congresses, symposiums and colloquiums in the field of animal nutrition and feedstuff; organization of exhibitions for cultural and/or educational purposes; publication of books, newspapers and periodicals; arranging and conducting of seminars and workshops, especially for experts in field of animal nutrition |
| NICE CLASS NUMBER | 42 |
| LIMITED LIST | List limited to |
| GOODS AND SERVICE TERMS IN ORIGINAL LANGUAGE | Scientific and technological services and research and design in the field of animal nutrition, feedstuff, and chemicals; industrial analysis and research services in the field of animal nutrition and feedstuff; design and development of computer hardware and software, in particular computer programs, especially as a database for amino acid analysis in feedstuffs for animal nutrition; computer software consultancy; technical consulting services for the animal feed industry about scientific research in the use of animal feed ingredients; chemistry consulting services; bacteriological and/or chemical laboratory research services; physics research; Research, namely, materials testing, analyzing, and evaluation; Industrial analysis, namely, product testing; Scientific and technological services, namely, scientific research, analysis and testing in the fields of feed ingredient raw material and amino acid digestibility; Research, namely, testing of raw materials and feed additives; Industrial analysis, namely, testing or research on machines, apparatus and instruments for raw materials and feed additives |

INSTRUCTIONS SECTION

FREE TEXT PROCESSING
INSTRUCTIONS

U. S. designated on 20100410; Opposition filed

MAIL DATE

06/21/2011

Revocation of Attorney/Domestic Representative and/or Appointment of Attorney/Domestic Representative

The table below presents the data as entered.

| Input Field | Entered |
|--|--|
| SERIAL NUMBER | 79083600 |
| LAW OFFICE ASSIGNED | LAW OFFICE 112 |
| ATTORNEY DOCKET NUMBER | 032301.673 |
| MARK SECTION | |
| MARK | AMINORED |
| NEW ATTORNEY ADDRESS | |
| STATEMENT TEXT | By submission of this request, the undersigned hereby APPOINTS the following new attorney. |
| NAME | Scott D. Woldow |
| FIRM NAME | Smith, Gambrell & Russell, LLP |
| INTERNAL ADDRESS | Suite 1130 |
| STREET | 1130 Connecticut Avenue, NW |
| CITY | Washington |
| STATE | District of Columbia |
| COUNTRY | United States |
| POSTAL/ZIP CODE | 20036 |
| PHONE | 202-263-4300 |
| FAX | 202-263-4329 |
| EMAIL | sdwoldow@sgrlaw.com |
| ATTORNEY AUTHORIZED TO COMMUNICATE VIA E-MAIL | YES |
| ATTORNEY DOCKET NUMBER | 032301.673 |
| NEW DOMESTIC REPRESENTATIVE ADDRESS | |
| | |

| | |
|--|---|
| STATEMENT TEXT | By submission of this request, the undersigned hereby APPOINTS the following new domestic representative upon whom notices or process affecting the mark may be served: |
| NAME | Scott D. Woldow |
| FIRM NAME | Smith, Gambrell & Russell, LLP |
| INTERNAL ADDRESS | Suite 1130 |
| STREET | 1130 Connecticut Avenue, NW |
| CITY | Washington |
| STATE | District of Columbia |
| COUNTRY | United States |
| POSTAL/ZIP CODE | 20036 |
| PHONE | 202-263-4300 |
| FAX | 202-263-4329 |
| EMAIL | sdwoldow@sgrlaw.com |
| REPRESENTATIVE AUTHORIZED TO COMMUNICATE VIA E-MAIL | YES |
| NEW CORRESPONDENCE ADDRESS | |
| NAME | Scott D. Woldow |
| FIRM NAME | Smith, Gambrell & Russell, LLP |
| INTERNAL ADDRESS | Suite 1130 |
| STREET | 1130 Connecticut Avenue, NW |
| CITY | Washington |
| STATE | District of Columbia |
| COUNTRY | United States |
| POSTAL/ZIP CODE | 20036 |
| PHONE | 202-263-4300 |
| FAX | 202-263-4329 |
| EMAIL | sdwoldow@sgrlaw.com |
| AUTHORIZED TO COMMUNICATE VIA E-MAIL | YES |
| SIGNATURE SECTION | |
| SIGNATURE | /SW/ |

| | |
|-----------------------------------|--|
| SIGNATORY NAME | Scott D. Woldow |
| SIGNATORY DATE | 05/11/2011 |
| SIGNATORY POSITION | Attorney of Record, DC Bar member |
| FILING INFORMATION SECTION | |
| SUBMIT DATE | Wed May 11 10:03:26 EDT 2011 |
| TEAS STAMP | USPTO/RAA-64.88.163.230-2 0110511100326060456-79083 600-4809a9cb943c1bcd5cbb9 879289e63e1f-N/A-N/A-2011 0511095922856964 |

Revocation of Attorney/Domestic Representative and/or Appointment of Attorney/Domestic Representative

To the Commissioner for Trademarks:

MARK: AMINORED

SERIAL NUMBER: 79083600

ATTORNEY DOCKET NUMBER 032301.673

Original Correspondence Address :

Evonik Degussa GmbH,
DG-IPM-PAT
Rodenbacher Chaussee 4
63457 Hanau
FED REP GERMANY

By submission of this request, the undersigned hereby APPOINTS the following new attorney.

Newly Appointed Attorney:

Scott D. Woldow
Smith, Gambrell & Russell, LLP
Suite 1130
1130 Connecticut Avenue, NW
Washington, District of Columbia 20036
United States
202-263-4300
202-263-4329
sdwoldow@sgrlaw.com
032301.673

By submission of this request, the undersigned hereby APPOINTS the following new domestic representative upon whom notices or process affecting the mark may be served:

Newly Appointed Representative:

Scott D. Woldow
Smith, Gambrell & Russell, LLP
Suite 1130
1130 Connecticut Avenue, NW
Washington, District of Columbia 20036
United States
202-263-4300

202-263-4329
sdwoldow@sgrlaw.com

The following is to be used as the correspondence address:

Scott D. Woldow
Smith, Gambrell & Russell, LLP
Suite 1130
1130 Connecticut Avenue, NW
Washington, District of Columbia 20036
United States

202-263-4300
202-263-4329
sdwoldow@sgrlaw.com The attorney docket/reference number is 032301.673.

Signature: /SW/ Date: 05/11/2011
Signatory's Name: Scott D. Woldow
Signatory's Position: Attorney of Record, DC Bar member

Serial Number: 79083600
Internet Transmission Date: Wed May 11 10:03:26 EDT 2011
TEAS Stamp: USPTO/RAA-64.88.163.230-2011051110032606
0456-79083600-4809a9cb943c1bcd5cbb987928
9c63e1f-N/A-N/A-20110511095922856964

NOTICE OF POSSIBLE OPPOSITION SENT TO INTERNATIONAL BUREAU

The table below presents the data as entered.

| Input Field | Entered |
|-----------------------------------|---|
| IDENTIFICATION SECTION | |
| INTERNATIONAL REGISTRATION NUMBER | 1041517 |
| OFFICE REFERENCE NUMBER | 79083600 |
| ORIGINAL LANGUAGE CODE | ENGLISH |
| NAME AND ADDRESS SECTION | |
| NAME AND ADDRESS TYPE | Applicant/Holder |
| NAME | Evonik Degussa GmbH |
| ADDRESS | Rellinghauser Straße 1-11 45128 Essen |
| OPPOSITION PERIOD SECTION | |
| OPPOSITION PERIOD START DATE | 05/24/2011 |
| INSTRUCTIONS SECTION | |
| FREE TEXT PROCESSING INSTRUCTIONS | U. S. designated on 20100410, Opposition period is starting 20110524 Type 4 |





Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451
www.uspto.gov

Notification of Opposition Possible

Statement sent to the International Bureau of the World Intellectual Property Organization (WIPO) in accordance with **Rule 18bis(1)(b)** of the Common Regulations under the Madrid Agreement and Protocol.

International Registration No.: 1041517
Holder: Evonik Degussa GmbH

By this notification, the United States Patent and Trademark Office (USPTO) hereby informs the International Bureau (IB) that the *ex officio* examination has been completed and the USPTO no longer has grounds for refusal. However, the protection of the mark is still subject to opposition or observations by third parties. The opposition or observations period is scheduled to begin on May 24, 2011, the date of publication by the USPTO.

An opposition must be filed within thirty (30) days after publication. Upon request, the opposition period is extendable, but shall not exceed 180 days after publication. 37 C.F.R. §§2.101(c), 2.102.

Sincerely,

Madrid Processing Unit
United States Patent & Trademark Office
(571) 272-8910

**** STATUS AND INFORMATION CHECK ****

For questions about this notification or the referenced international registration, email the USPTO Madrid Processing Unit at MPU@uspto.gov or visit their website at <http://www.uspto.gov/web/trademarks/madrid/madridindex.htm>.

To check the status of the application, use the USPTO Trademark Applications and Registrations Retrieval (TARR) online system at <http://tarr.uspto.gov>. To view and download documents in pending

applications and registrations, please access the Trademark Document Retrieval (TDR) website at <http://tdr.uspto.gov/>.

To view any notice of publication for opposition published in the Official Gazette, visit the USPTO website at <http://www.uspto.gov/web/trademarks/tmog/>.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451
www.uspto.gov

May 4, 2011

NOTICE OF PUBLICATION UNDER 12(a)

- | | |
|---|---|
| 1. Serial No.: 79/083,600 | 2. Mark: AMINORED Standard Character Mark |
| 3. International Class(es): 1, 9, 31, 41, 42 | |
| 4. Publication Date: May 24, 2011 | 5. Applicant: Evonik Degussa GmbH |

The mark of the application identified appears to be entitled to registration. The mark will, in accordance with Section 12(a) of the Trademark Act of 1946, as amended, be published in the Official Gazette on the date indicated above for the purpose of opposition by any person who believes he will be damaged by the registration of the mark. If no opposition is filed within the time specified by Section 13(a) of the Statute or by rules 2.101 or 2.102 of the Trademark Rules, the Commissioner of Patents and Trademarks may issue a certificate of registration.

Copies of the trademark portion of the Official Gazette containing the publication of the mark may be obtained from:

The Superintendent of Documents
U.S. Government Printing Office
PO Box 371954
Pittsburgh, PA 15250-7954
Phone: 202-512-1800

By direction of the Commissioner.

Correspondence Address:

Evonik Degussa GmbH,
DG-IPM-PAT
Rodenbacher Chaussee 4
63457 Hanau

TMP&I

FED REP GERMANY

Trademark Snap Shot Publication & Issue Review Stylesheet
 (Table presents the data on Publication & Issue Review Complete)

OVERVIEW

| | | | |
|---------------|--------------------|---------------|------------|
| SERIAL NUMBER | 79083600 | FILING DATE | 04/10/2010 |
| REG NUMBER | 0000000 | REG DATE | N/A |
| REGISTER | PRINCIPAL | MARK TYPE | TRADEMARK |
| INTL REG # | 1041517 | INTL REG DATE | 04/10/2010 |
| TM ATTORNEY | OLANDRIA, WARREN L | L.O. ASSIGNED | 112 |

PUB INFORMATION

| | |
|----------------------|---------------------------------------|
| RUN DATE | 04/21/2011 |
| PUB DATE | 05/24/2011 |
| STATUS | 681-PUBLICATION/ISSUE REVIEW COMPLETE |
| STATUS DATE | 04/20/2011 |
| LITERAL MARK ELEMENT | AMINORED |

| | | | |
|----------------|-----|--------------------|-----|
| DATE ABANDONED | N/A | DATE CANCELLED | N/A |
| SECTION 2F | NO | SECTION 2F IN PART | NO |
| SECTION 8 | NO | SECTION 8 IN PART | NO |
| SECTION 15 | NO | REPub 12C | N/A |
| RENEWAL FILED | NO | RENEWAL DATE | N/A |
| DATE AMEND REG | N/A | | |

FILING BASIS

| FILED BASIS | | CURRENT BASIS | | AMENDED BASIS | |
|-------------|-----|---------------|-----|---------------|----|
| 1 (a) | NO | 1 (a) | NO | 1 (a) | NO |
| 1 (b) | NO | 1 (b) | NO | 1 (b) | NO |
| 44D | NO | 44D | NO | 44D | NO |
| 44E | NO | 44E | NO | 44E | NO |
| 66A | YES | 66A | YES | | |
| NO BASIS | NO | NO BASIS | NO | | |

MARK DATA

| | |
|-------------------------|----------|
| STANDARD CHARACTER MARK | YES |
| LITERAL MARK ELEMENT | AMINORED |

| | |
|----------------------------------|---|
| MARK DRAWING CODE | 4-STANDARD CHARACTER MARK |
| COLOR DRAWING FLAG | NO |
| CURRENT OWNER INFORMATION | |
| PARTY TYPE | 10-ORIGINAL APPLICANT |
| NAME | Evonik Degussa GmbH |
| ADDRESS | Rellinghauser Straße 1-11 45128 Essen, |
| ENTITY | 16-LTD LIAB CO |
| CITIZENSHIP | Germany |
| GOODS AND SERVICES | |
| INTERNATIONAL CLASS | 001 |
| DESCRIPTION TEXT | Chemicals used in industry and science, as well as in agriculture, horticulture and forestry except for fungicides, herbicides, insecticides, and parasiticides; chemicals for use in industry; Chemicals used in industry, namely, chemicals for industrial purposes; chemicals for use in industry and science; chemical substances for preserving foodstuffs |
| INTERNATIONAL CLASS | 009 |
| DESCRIPTION TEXT | Computer software for use in estimating amino acid content in feedstuff for livestock and in formulating livestock diets in the field of animal nutrition; Diagnostic apparatus for testing feed ingredients; Measuring apparatus, namely, technical measuring, testing and checking apparatus and instruments for measuring, testing and checking feed ingredient raw material and rapid evaluation of digestibility in heat processed raw materials; Testing and food analysis apparatus, namely, apparatus for testing gas, liquid and solids for feed ingredient analysis; Testing and food analysis apparatus, namely, apparatus for testing gas, liquid and solids to detect heat damage in a processed raw material and to adjust amino acid digestibility in order to prevent performance depression of animals fed ingredients; Testing and food analysis apparatus, namely, apparatus for testing animal nutrition liquids and solids; Testing and food analysis apparatus, namely, apparatus for testing gas, liquid and solid raw materials for amino acid content; Scientific instruments, namely, electronic analyzers for testing feed ingredient raw material quality |
| INTERNATIONAL CLASS | 031 |
| DESCRIPTION TEXT | Foodstuffs for animals; additives to fodder, not for medical purposes |
| INTERNATIONAL CLASS | 041 |
| DESCRIPTION TEXT | Education and instruction, namely, conducting conferences, congresses, symposiums and colloquiums in the field of feedstuff and animal nutrition; entertainment in the nature of conducting entertainment exhibitions in the nature of animal exhibitions and animal nutrition festivals; teaching and continuing professional education for experts in the field of |

| | |
|---------------------|--|
| | feedstuff and animal nutrition; arranging and conducting of conferences, congresses, symposiums and colloquiums in the field of animal nutrition and feedstuff; organization of exhibitions for cultural and/or educational purposes; publication of books, newspapers and periodicals; arranging and conducting of seminars and workshops, especially for experts in field of animal nutrition |
| INTERNATIONAL CLASS | 042 |
| DESCRIPTION TEXT | Scientific and technological services and research and design in the field of animal nutrition, feedstuff, and chemicals; industrial analysis and research services in the field of animal nutrition and feedstuff; design and development of computer hardware and software, in particular computer programs, especially as a database for amino acid analysis in feedstuffs for animal nutrition; computer software consultancy; technical consulting services for the animal feed industry about scientific research in the use of animal feed ingredients; chemistry consulting services; bacteriological and/or chemical laboratory research services; physics research; Research, namely, materials testing, analyzing, and evaluation; Industrial analysis, namely, product testing; Scientific and technological services, namely, scientific research, analysis and testing in the fields of feed ingredient raw material and amino acid digestibility; Research, namely, testing of raw materials and feed additives; Industrial analysis, namely, testing or research on machines, apparatus and instruments for raw materials and feed additives |

GOODS AND SERVICES CLASSIFICATION

| | | | | | | | |
|---------------------|-----|----------------|------|----------------------------|------|--------------|----------|
| INTERNATIONAL CLASS | 001 | FIRST USE DATE | NONE | FIRST USE IN COMMERCE DATE | NONE | CLASS STATUS | 6-ACTIVE |
| INTERNATIONAL CLASS | 009 | FIRST USE DATE | NONE | FIRST USE IN COMMERCE DATE | NONE | CLASS STATUS | 6-ACTIVE |
| INTERNATIONAL CLASS | 031 | FIRST USE DATE | NONE | FIRST USE IN COMMERCE DATE | NONE | CLASS STATUS | 6-ACTIVE |
| INTERNATIONAL CLASS | 041 | FIRST USE DATE | NONE | FIRST USE IN COMMERCE DATE | NONE | CLASS STATUS | 6-ACTIVE |
| INTERNATIONAL CLASS | 042 | FIRST USE DATE | NONE | FIRST USE IN COMMERCE DATE | NONE | CLASS STATUS | 6-ACTIVE |

MISCELLANEOUS INFORMATION/STATEMENTS

| | |
|------------------------|----|
| CHANGE IN REGISTRATION | NO |
|------------------------|----|

| | |
|-------------|-----------|
| PSEUDO MARK | AMINO RED |
|-------------|-----------|

SECTION 66A INTERNATIONAL REGISTRATION DATA

| | |
|----------------------|---|
| INTL REG # | 1041517 |
| INTL REG DATE | 04/10/2010 |
| PRIORITY CLMD | YES |
| PRIOR CLMD DATE | 12/08/2009 |
| INTL STATUS | 001-REQUEST FOR EXTENSION OF PROTECTION PROCESSED |
| INTL STATUS DATE | 07/09/2010 |
| AUTO PROTECTION DATE | 01/08/2012 |
| INTL RENEWAL DATE | 04/10/2020 |
| INTL REG DEATH DATE | N/A |
| FIRST REFUSAL | YES |

PROSECUTION HISTORY

| DATE | ENT CD | ENT TYPE | DESCRIPTION | ENT NUM |
|------------|--------|----------|---|---------|
| 04/20/2011 | PREV | O | LAW OFFICE PUBLICATION REVIEW COMPLETED | 020 |
| 04/19/2011 | CNSA | O | APPROVED FOR PUB - PRINCIPAL REGISTER | 019 |
| 04/19/2011 | TEME | I | TEAS/EMAIL CORRESPONDENCE ENTERED | 018 |
| 04/19/2011 | CRFA | I | CORRESPONDENCE RECEIVED IN LAW OFFICE | 017 |
| 04/18/2011 | TROA | I | TEAS RESPONSE TO OFFICE ACTION RECEIVED | 016 |
| 03/18/2011 | CNRT | O | NON-FINAL ACTION MAILED | 015 |
| 03/17/2011 | CNRT | R | NON-FINAL ACTION WRITTEN | 014 |
| 01/24/2011 | TEME | I | TEAS/EMAIL CORRESPONDENCE ENTERED | 013 |
| 01/24/2011 | CRFA | I | CORRESPONDENCE RECEIVED IN LAW OFFICE | 012 |
| 01/19/2011 | ALIE | A | ASSIGNED TO LIE | 011 |
| 01/18/2011 | TROA | I | TEAS RESPONSE TO OFFICE ACTION RECEIVED | 010 |
| 08/06/2010 | RFNT | P | REFUSAL PROCESSED BY IB | 009 |
| 07/16/2010 | MAFR | O | APPLICATION FILING RECEIPT MAILED | 008 |
| 07/15/2010 | RFCS | P | NON-FINAL ACTION MAILED - REFUSAL SENT TO IB | 007 |
| 07/15/2010 | RFRR | P | REFUSAL PROCESSED BY MPU | 006 |
| 07/15/2010 | RFCR | E | NON-FINAL ACTION (IB REFUSAL) PREPARED FOR REVIEW | 005 |
| 07/14/2010 | CNRT | R | NON-FINAL ACTION WRITTEN | 004 |
| 07/12/2010 | DOCK | D | ASSIGNED TO EXAMINER | 003 |

| | | | | |
|------------|------|---|---|-----|
| 07/12/2010 | NWOS | I | NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM | 002 |
| 07/09/2010 | REPR | M | SN ASSIGNED FOR SECT 66A APPL FROM IB | 001 |

CURRENT CORRESPONDENCE INFORMATION

| | |
|-------------------------|--|
| ATTORNEY | NONE |
| CORRESPONDENCE ADDRESS | Evonik Degussa GmbH, DG-IPM-PAT Rodenbacher Chaussee 4 63457 Hanau FED REP GERMANY |
| DOMESTIC REPRESENTATIVE | NONE |

AMINORED

Trademark Snap Shot Amendment & Mail Processing Stylesheet
 (Table presents the data on Amendment & Mail Processing Complete)

OVERVIEW

| | | | |
|---------------|--------------------|---------------|------------|
| SERIAL NUMBER | 79083600 | FILING DATE | 04/10/2010 |
| REG NUMBER | 0000000 | REG DATE | N/A |
| REGISTER | PRINCIPAL | MARK TYPE | TRADEMARK |
| INTL REG # | 1041517 | INTL REG DATE | 04/10/2010 |
| TM ATTORNEY | OLANDRIA, WARREN L | L.O. ASSIGNED | 112 |

PUB INFORMATION

| | |
|----------------------|-----------------------------|
| RUN DATE | 04/20/2011 |
| PUB DATE | N/A |
| STATUS | 680-APPROVED FOR PUBLICATON |
| STATUS DATE | 04/19/2011 |
| LITERAL MARK ELEMENT | AMINORED |

| | | | |
|----------------|-----|--------------------|-----|
| DATE ABANDONED | N/A | DATE CANCELLED | N/A |
| SECTION 2F | NO | SECTION 2F IN PART | NO |
| SECTION 8 | NO | SECTION 8 IN PART | NO |
| SECTION 15 | NO | REPub 12C | N/A |
| RENEWAL FILED | NO | RENEWAL DATE | N/A |
| DATE AMEND REG | N/A | | |

FILING BASIS

| FILED BASIS | | CURRENT BASIS | | AMENDED BASIS | |
|-------------|-----|---------------|-----|---------------|----|
| 1 (a) | NO | 1 (a) | NO | 1 (a) | NO |
| 1 (b) | NO | 1 (b) | NO | 1 (b) | NO |
| 44D | NO | 44D | NO | 44D | NO |
| 44E | NO | 44E | NO | 44E | NO |
| 66A | YES | 66A | YES | | |
| NO BASIS | NO | NO BASIS | NO | | |

MARK DATA

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| STANDARD CHARACTER MARK | YES |
| LITERAL MARK ELEMENT | AMINORED |

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| MARK DRAWING CODE | 4-STANDARD CHARACTER MARK |
| COLOR DRAWING FLAG | NO |
| CURRENT OWNER INFORMATION | |
| PARTY TYPE | 10-ORIGINAL APPLICANT |
| NAME | Evonik Degussa GmbH |
| ADDRESS | Rellinghauser Straße 1-11 45128 Essen, |
| ENTITY | 16-LTD LIAB CO |
| CITIZENSHIP | Germany |
| GOODS AND SERVICES | |
| INTERNATIONAL CLASS | 001 |
| DESCRIPTION TEXT | Chemicals used in industry and science, as well as in agriculture, horticulture and forestry except for fungicides, herbicides, insecticides, and parasiticides; chemicals for use in industry; Chemicals used in industry, namely, chemicals for industrial purposes; chemicals for use in industry and science; chemical substances for preserving foodstuffs |
| INTERNATIONAL CLASS | 009 |
| DESCRIPTION TEXT | Computer software for use in estimating amino acid content in feedstuff for livestock and in formulating livestock diets in the field of animal nutrition; Diagnostic apparatus for testing feed ingredients; Measuring apparatus, namely, technical measuring, testing and checking apparatus and instruments for measuring, testing and checking feed ingredient raw material and rapid evaluation of digestibility in heat processed raw materials; Testing and food analysis apparatus, namely, apparatus for testing gas, liquid and solids for feed ingredient analysis; Testing and food analysis apparatus, namely, apparatus for testing gas, liquid and solids to detect heat damage in a processed raw material and to adjust amino acid digestibility in order to prevent performance depression of animals fed ingredients; Testing and food analysis apparatus, namely, apparatus for testing animal nutrition liquids and solids; Testing and food analysis apparatus, namely, apparatus for testing gas, liquid and solid raw materials for amino acid content; Scientific instruments, namely, electronic analyzers for testing feed ingredient raw material quality |
| INTERNATIONAL CLASS | 031 |
| DESCRIPTION TEXT | Foodstuffs for animals; additives to fodder, not for medical purposes |
| INTERNATIONAL CLASS | 041 |
| DESCRIPTION TEXT | Education and instruction, namely, conducting conferences, congresses, symposiums and colloquiums in the field of feedstuff and animal nutrition; entertainment in the nature of conducting entertainment exhibitions in the nature of animal exhibitions and animal nutrition festivals; teaching and continuing professional education for experts in the field of |

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| | feedstuff and animal nutrition; arranging and conducting of conferences, congresses, symposiums and colloquiums in the field of animal nutrition and feedstuff; organization of exhibitions for cultural and/or educational purposes; publication of books, newspapers and periodicals; arranging and conducting of seminars and workshops, especially for experts in field of animal nutrition |
|--|---|

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| INTERNATIONAL CLASS | 042 |
| DESCRIPTION TEXT | Scientific and technological services and research and design in the field of animal nutrition, feedstuff, and chemicals; industrial analysis and research services in the field of animal nutrition and feedstuff; design and development of computer hardware and software, in particular computer programs, especially as a database for amino acid analysis in feedstuffs for animal nutrition; computer software consultancy; technical consulting services for the animal feed industry about scientific research in the use of animal feed ingredients; chemistry consulting services; bacteriological and/or chemical laboratory research services; physics research; Research, namely, materials testing, analyzing, and evaluation; Industrial analysis, namely, product testing; Scientific and technological services, namely, scientific research, analysis and testing in the fields of feed ingredient raw material and amino acid digestibility; Research, namely, testing of raw materials and feed additives; Industrial analysis, namely, testing or research on machines, apparatus and instruments for raw materials and feed additives |

GOODS AND SERVICES CLASSIFICATION

| | | | | | | | |
|---------------------|-----|----------------|------|----------------------------|------|--------------|----------|
| INTERNATIONAL CLASS | 001 | FIRST USE DATE | NONE | FIRST USE IN COMMERCE DATE | NONE | CLASS STATUS | 6-ACTIVE |
| INTERNATIONAL CLASS | 009 | FIRST USE DATE | NONE | FIRST USE IN COMMERCE DATE | NONE | CLASS STATUS | 6-ACTIVE |
| INTERNATIONAL CLASS | 031 | FIRST USE DATE | NONE | FIRST USE IN COMMERCE DATE | NONE | CLASS STATUS | 6-ACTIVE |
| INTERNATIONAL CLASS | 041 | FIRST USE DATE | NONE | FIRST USE IN COMMERCE DATE | NONE | CLASS STATUS | 6-ACTIVE |
| INTERNATIONAL CLASS | 042 | FIRST USE DATE | NONE | FIRST USE IN COMMERCE DATE | NONE | CLASS STATUS | 6-ACTIVE |

MISCELLANEOUS INFORMATION/STATEMENTS

| | |
|------------------------|----|
| CHANGE IN REGISTRATION | NO |
|------------------------|----|

| | |
|-------------|-----------|
| PSEUDO MARK | AMINO RED |
|-------------|-----------|

SECTION 66A INTERNATIONAL REGISTRATION DATA

| | |
|----------------------|---|
| INTL REG # | 1041517 |
| INTL REG DATE | 04/10/2010 |
| PRIORITY CLMD | YES |
| PRIOR CLMD DATE | 12/08/2009 |
| INTL STATUS | 001-REQUEST FOR EXTENSION OF PROTECTION PROCESSED |
| INTL STATUS DATE | 07/09/2010 |
| AUTO PROTECTION DATE | 01/08/2012 |
| INTL RENEWAL DATE | 04/10/2020 |
| INTL REG DEATH DATE | N/A |
| FIRST REFUSAL | YES |

PROSECUTION HISTORY

| DATE | ENT CD | ENT TYPE | DESCRIPTION | ENT NUM |
|------------|--------|----------|--|---------|
| 04/19/2011 | CNSA | O | APPROVED FOR PUB - PRINCIPAL REGISTER | 019 |
| 04/19/2011 | TEME | I | TEAS/EMAIL CORRESPONDENCE ENTERED | 018 |
| 04/19/2011 | CRFA | I | CORRESPONDENCE RECEIVED IN LAW OFFICE | 017 |
| 04/18/2011 | TROA | I | TEAS RESPONSE TO OFFICE ACTION RECEIVED | 016 |
| 03/18/2011 | CNRT | O | NON-FINAL ACTION MAILED | 015 |
| 03/17/2011 | CNRT | R | NON-FINAL ACTION WRITTEN | 014 |
| 01/24/2011 | TEME | I | TEAS/EMAIL CORRESPONDENCE ENTERED | 013 |
| 01/24/2011 | CRFA | I | CORRESPONDENCE RECEIVED IN LAW OFFICE | 012 |
| 01/19/2011 | ALIE | A | ASSIGNED TO LIE | 011 |
| 01/18/2011 | TROA | I | TEAS RESPONSE TO OFFICE ACTION RECEIVED | 010 |
| 08/06/2010 | RFNT | P | REFUSAL PROCESSED BY IB | 009 |
| 07/16/2010 | MAFR | O | APPLICATION FILING RECEIPT MAILED | 008 |
| 07/15/2010 | RFCS | P | NON-FINAL ACTION MAILED - REFUSAL SENT TO IB | 007 |
| 07/15/2010 | RFRR | P | REFUSAL PROCESSED BY MPU | 006 |
| 07/15/2010 | RFCR | E | NON-FINAL ACTION (IB REFUSAL) PREPARED FOR REVIEW | 005 |
| 07/14/2010 | CNRT | R | NON-FINAL ACTION WRITTEN | 004 |
| 07/12/2010 | DOCK | D | ASSIGNED TO EXAMINER | 003 |
| 07/12/2010 | NWOS | I | NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM | 002 |

| | | | | |
|---|------|---|--|-----|
| 07/09/2010 | REPR | M | SN ASSIGNED FOR SECT 66A APPL FROM IB | 001 |
| CURRENT CORRESPONDENCE INFORMATION | | | | |
| ATTORNEY | | | NONE | |
| CORRESPONDENCE ADDRESS | | | Evonik Degussa GmbH, DG-IPM-PAT Rodenbacher Chaussee 4 63457 Hanau FED REP GERMANY | |
| DOMESTIC REPRESENTATIVE | | | NONE | |

AMINORED

Trademark Snap Shot Publication Stylesheet
(Table presents the data on Publication Approval)

OVERVIEW

| | | | |
|---------------|--------------------|---------------|------------|
| SERIAL NUMBER | 79083600 | FILING DATE | 04/10/2010 |
| REG NUMBER | 0000000 | REG DATE | N/A |
| REGISTER | PRINCIPAL | MARK TYPE | TRADEMARK |
| INTL REG # | 1041517 | INTL REG DATE | 04/10/2010 |
| TM ATTORNEY | OLANDRIA, WARREN L | L.O. ASSIGNED | 112 |

PUB INFORMATION

| | |
|----------------------|------------------------------|
| RUN DATE | 04/20/2011 |
| PUB DATE | N/A |
| STATUS | 680-APPROVED FOR PUBLICATION |
| STATUS DATE | 04/19/2011 |
| LITERAL MARK ELEMENT | AMINORED |

| | | | |
|----------------|-----|--------------------|-----|
| DATE ABANDONED | N/A | DATE CANCELLED | N/A |
| SECTION 2F | NO | SECTION 2F IN PART | NO |
| SECTION 8 | NO | SECTION 8 IN PART | NO |
| SECTION 15 | NO | REPUBLIC 12C | N/A |
| RENEWAL FILED | NO | RENEWAL DATE | N/A |
| DATE AMEND REG | N/A | | |

FILING BASIS

| FILED BASIS | | CURRENT BASIS | | AMENDED BASIS | |
|-------------|-----|---------------|-----|---------------|----|
| 1 (a) | NO | 1 (a) | NO | 1 (a) | NO |
| 1 (b) | NO | 1 (b) | NO | 1 (b) | NO |
| 44D | NO | 44D | NO | 44D | NO |
| 44E | NO | 44E | NO | 44E | NO |
| 66A | YES | 66A | YES | | |
| NO BASIS | NO | NO BASIS | NO | | |

MARK DATA

| | |
|-------------------------|----------|
| STANDARD CHARACTER MARK | YES |
| LITERAL MARK ELEMENT | AMINORED |

| | |
|----------------------------------|---|
| MARK DRAWING CODE | 4-STANDARD CHARACTER MARK |
| COLOR DRAWING FLAG | NO |
| CURRENT OWNER INFORMATION | |
| PARTY TYPE | 10-ORIGINAL APPLICANT |
| NAME | Evonik Degussa GmbH |
| ADDRESS | Rellinghauser Straße 1-11 45128 Essen, |
| ENTITY | 16-LTD LIAB CO |
| CITIZENSHIP | Germany |
| GOODS AND SERVICES | |
| INTERNATIONAL CLASS | 001 |
| DESCRIPTION TEXT | Chemicals used in industry and science, as well as in agriculture, horticulture and forestry except for fungicides, herbicides, insecticides, and parasiticides; chemicals for use in industry; Chemicals used in industry, namely, chemicals for industrial purposes; chemicals for use in industry and science; chemical substances for preserving foodstuffs |
| INTERNATIONAL CLASS | 009 |
| DESCRIPTION TEXT | Computer software for use in estimating amino acid content in feedstuff for livestock and in formulating livestock diets in the field of animal nutrition; Diagnostic apparatus for testing feed ingredients; Measuring apparatus, namely, technical measuring, testing and checking apparatus and instruments for measuring, testing and checking feed ingredient raw material and rapid evaluation of digestibility in heat processed raw materials; Testing and food analysis apparatus, namely, apparatus for testing gas, liquid and solids for feed ingredient analysis; Testing and food analysis apparatus, namely, apparatus for testing gas, liquid and solids to detect heat damage in a processed raw material and to adjust amino acid digestibility in order to prevent performance depression of animals fed ingredients; Testing and food analysis apparatus, namely, apparatus for testing animal nutrition liquids and solids; Testing and food analysis apparatus, namely, apparatus for testing gas, liquid and solid raw materials for amino acid content; Scientific instruments, namely, electronic analyzers for testing feed ingredient raw material quality |
| INTERNATIONAL CLASS | 031 |
| DESCRIPTION TEXT | Foodstuffs for animals; additives to fodder, not for medical purposes |
| INTERNATIONAL CLASS | 041 |
| DESCRIPTION TEXT | Education and instruction, namely, conducting conferences, congresses, symposiums and colloquiums in the field of feedstuff and animal nutrition; entertainment in the nature of conducting entertainment exhibitions in the nature of animal exhibitions and animal nutrition festivals; teaching and continuing professional education for experts in the field of |

feedstuff and animal nutrition; arranging and conducting of conferences, congresses, symposiums and colloquiums in the field of animal nutrition and feedstuff; organization of exhibitions for cultural and/or educational purposes; publication of books, newspapers and periodicals; arranging and conducting of seminars and workshops, especially for experts in field of animal nutrition

| | |
|---------------------|--|
| INTERNATIONAL CLASS | 042 |
| DESCRIPTION TEXT | Scientific and technological services and research and design in the field of animal nutrition, feedstuff, and chemicals; industrial analysis and research services in the field of animal nutrition and feedstuff; design and development of computer hardware and software, in particular computer programs, especially as a database for amino acid analysis in feedstuffs for animal nutrition; computer software consultancy; technical consulting services for the animal feed industry about scientific research in the use of animal feed ingredients; chemistry consulting services; bacteriological and/or chemical laboratory research services; physics research; Research, namely, materials testing, analyzing, and evaluation; Industrial analysis, namely, product testing; Scientific and technological services, namely, scientific research, analysis and testing in the fields of feed ingredient raw material and amino acid digestibility; Research, namely, testing of raw materials and feed additives; Industrial analysis, namely, testing or research on machines, apparatus and instruments for raw materials and feed additives |

GOODS AND SERVICES CLASSIFICATION

| | | | | | | | |
|---------------------|-----|----------------|------|----------------------------|------|--------------|----------|
| INTERNATIONAL CLASS | 001 | FIRST USE DATE | NONE | FIRST USE IN COMMERCE DATE | NONE | CLASS STATUS | 6-ACTIVE |
| INTERNATIONAL CLASS | 009 | FIRST USE DATE | NONE | FIRST USE IN COMMERCE DATE | NONE | CLASS STATUS | 6-ACTIVE |
| INTERNATIONAL CLASS | 031 | FIRST USE DATE | NONE | FIRST USE IN COMMERCE DATE | NONE | CLASS STATUS | 6-ACTIVE |
| INTERNATIONAL CLASS | 041 | FIRST USE DATE | NONE | FIRST USE IN COMMERCE DATE | NONE | CLASS STATUS | 6-ACTIVE |
| INTERNATIONAL CLASS | 042 | FIRST USE DATE | NONE | FIRST USE IN COMMERCE DATE | NONE | CLASS STATUS | 6-ACTIVE |

MISCELLANEOUS INFORMATION/STATEMENTS

CHANGE IN REGISTRATION NO

| | |
|-------------|-----------|
| PSEUDO MARK | AMINO RED |
|-------------|-----------|

SECTION 66A INTERNATIONAL REGISTRATION DATA

| | |
|----------------------|---|
| INTL REG # | 1041517 |
| INTL REG DATE | 04/10/2010 |
| PRIORITY CLMD | YES |
| PRIOR CLMD DATE | 12/08/2009 |
| INTL STATUS | 001-REQUEST FOR EXTENSION OF PROTECTION PROCESSED |
| INTL STATUS DATE | 07/09/2010 |
| AUTO PROTECTION DATE | 01/08/2012 |
| INTL RENEWAL DATE | 04/10/2020 |
| INTL REG DEATH DATE | N/A |
| FIRST REFUSAL | YES |

PROSECUTION HISTORY

| DATE | ENT CD | ENT TYPE | DESCRIPTION | ENT NUM |
|------------|--------|----------|--|---------|
| 04/19/2011 | CNSA | O | APPROVED FOR PUB - PRINCIPAL REGISTER | 019 |
| 04/19/2011 | TEME | I | TEAS/EMAIL CORRESPONDENCE ENTERED | 018 |
| 04/19/2011 | CRFA | I | CORRESPONDENCE RECEIVED IN LAW OFFICE | 017 |
| 04/18/2011 | TROA | I | TEAS RESPONSE TO OFFICE ACTION RECEIVED | 016 |
| 03/18/2011 | CNRT | O | NON-FINAL ACTION MAILED | 015 |
| 03/17/2011 | CNRT | R | NON-FINAL ACTION WRITTEN | 014 |
| 01/24/2011 | TEME | I | TEAS/EMAIL CORRESPONDENCE ENTERED | 013 |
| 01/24/2011 | CRFA | I | CORRESPONDENCE RECEIVED IN LAW OFFICE | 012 |
| 01/19/2011 | ALIE | A | ASSIGNED TO LIE | 011 |
| 01/18/2011 | TROA | I | TEAS RESPONSE TO OFFICE ACTION RECEIVED | 010 |
| 08/06/2010 | RFNT | P | REFUSAL PROCESSED BY IB | 009 |
| 07/16/2010 | MAFR | O | APPLICATION FILING RECEIPT MAILED | 008 |
| 07/15/2010 | RFCS | P | NON-FINAL ACTION MAILED - REFUSAL SENT TO IB | 007 |
| 07/15/2010 | RFRR | P | REFUSAL PROCESSED BY MPU | 006 |
| 07/15/2010 | RFCR | E | NON-FINAL ACTION (IB REFUSAL) PREPARED FOR REVIEW | 005 |
| 07/14/2010 | CNRT | R | NON-FINAL ACTION WRITTEN | 004 |
| 07/12/2010 | DOCK | D | ASSIGNED TO EXAMINER | 003 |
| 07/12/2010 | NWOS | I | NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM | 002 |

| | | | | |
|---|------|---|--|-----|
| 07/09/2010 | REPR | M | SN ASSIGNED FOR SECT 66A APPL FROM IB | 001 |
| CURRENT CORRESPONDENCE INFORMATION | | | | |
| ATTORNEY | | | NONE | |
| CORRESPONDENCE ADDRESS | | | Evonik Degussa GmbH, DG-IPM-PAT Rodenbacher Chaussee 4 63457 Hanau FED REP GERMANY | |
| DOMESTIC REPRESENTATIVE | | | NONE | |

AMINORED

Response to Office Action

The table below presents the data as entered.

| Input Field | Entered |
|--|----------------|
| SERIAL NUMBER | 79083600 |
| LAW OFFICE ASSIGNED | LAW OFFICE 112 |
| MARK SECTION (no change) | |
| GOODS AND/OR SERVICES SECTION (001)(no change) | |
| GOODS AND/OR SERVICES SECTION (009)(no change) | |
| GOODS AND/OR SERVICES SECTION (031)(no change) | |
| GOODS AND/OR SERVICES SECTION (041)(current) | |
| INTERNATIONAL CLASS | 041 |
| DESCRIPTION | |
| <p>Education and instruction, namely, conducting conferences, congresses, symposiums and colloquiums in the field of feedstuff and animal nutrition and distribution of printed materials in connection therewith in hard copy or electronic format on the same topics; entertainment in the nature of conducting entertainment exhibitions in the nature of animal exhibitions and animal nutrition festivals; teaching and continuing professional education for experts in the field of feedstuff and animal nutrition; arranging and conducting of conferences, congresses, symposiums and colloquiums in the field of animal nutrition and feedstuff; organization of exhibitions for cultural and/or educational purposes; publication of books, newspapers and periodicals; arranging and conducting of seminars and workshops, especially for experts in field of animal nutrition</p> | |
| GOODS AND/OR SERVICES SECTION (041)(proposed) | |
| INTERNATIONAL CLASS | 041 |
| TRACKED TEXT DESCRIPTION | |
| <p>Education and instruction, namely, conducting conferences, congresses, symposiums and colloquiums in the field of feedstuff and animal nutrition and distribution of printed materials in connection therewith in hard copy or electronic format on the same topics; <u>Education and instruction, namely, conducting conferences, congresses, symposiums and colloquiums in the field of feedstuff and animal nutrition;</u> entertainment in the nature of conducting entertainment exhibitions in the nature of animal exhibitions and animal nutrition festivals; teaching and continuing professional education for experts in the field of feedstuff and animal nutrition; arranging and conducting of conferences, congresses, symposiums and colloquiums in the field of animal nutrition and feedstuff; organization of exhibitions for cultural and/or educational purposes; publication of books, newspapers and periodicals; arranging and conducting of seminars and workshops, especially for experts in field of animal nutrition</p> | |

| | |
|--|---|
| FINAL DESCRIPTION | |
| Education and instruction, namely, conducting conferences, congresses, symposiums and colloquiums in the field of feedstuff and animal nutrition; entertainment in the nature of conducting entertainment exhibitions in the nature of animal exhibitions and animal nutrition festivals; teaching and continuing professional education for experts in the field of feedstuff and animal nutrition; arranging and conducting of conferences, congresses, symposiums and colloquiums in the field of animal nutrition and feedstuff; organization of exhibitions for cultural and/or educational purposes; publication of books, newspapers and periodicals; arranging and conducting of seminars and workshops, especially for experts in field of animal nutrition | |
| GOODS AND/OR SERVICES SECTION (042)(no change) | |
| ADDITIONAL STATEMENTS SECTION | |
| MISCELLANEOUS STATEMENT | The recitation of services has been amended as required by the Examiner. Applicant respectfully requests approval of the trademark application for publication. |
| SIGNATURE SECTION | |
| RESPONSE SIGNATURE | /SW/ |
| SIGNATORY'S NAME | Scott D. Woldow |
| SIGNATORY'S POSITION | Attorney of Record. DC Bar Member |
| DATE SIGNED | 04/18/2011 |
| AUTHORIZED SIGNATORY | YES |
| FILING INFORMATION SECTION | |
| SUBMIT DATE | Mon Apr 18 16:24:09 EDT 2011 |
| TEAS STAMP | USPTO/ROA-64.88.163.230-2 0110418162409514629-79083 600-4802ebcf9712334e95965 6134a3e321ff-N/A-N/A-2011 0418162025935656 |

Response to Office Action
To the Commissioner for Trademarks:

Application serial no. **79083600** has been amended as follows:

CLASSIFICATION AND LISTING OF GOODS/SERVICES

Applicant proposes to amend the following class of goods/services in the application:

Current: Class 041 for Education and instruction, namely, conducting conferences, congresses, symposiums and colloquiums in the field of feedstuff and animal nutrition and distribution of printed materials in connection therewith in hard copy or electronic format on the same topics; entertainment in the nature of conducting entertainment exhibitions in the nature of animal exhibitions and animal nutrition festivals; teaching and continuing professional education for experts in the field of feedstuff and animal nutrition; arranging and conducting of conferences, congresses, symposiums and colloquiums in the field of animal nutrition and feedstuff; organization of exhibitions for cultural and/or educational purposes; publication of books, newspapers and periodicals; arranging and conducting of seminars and workshops, especially for experts in field of animal nutrition

Original Filing Basis:

Filing Basis Section 66(a), Request for Extension of Protection to the United States. Section 66(a) of the Trademark Act, 15 U.S.C. §1141f.

Proposed:

Tracked Text Description: ~~Education and instruction, namely, conducting conferences, congresses, symposiums and colloquiums in the field of feedstuff and animal nutrition and distribution of printed materials in connection therewith in hard copy or electronic format on the same topics;~~ Education and instruction, namely, conducting conferences, congresses, symposiums and colloquiums in the field of feedstuff and animal nutrition; entertainment in the nature of conducting entertainment exhibitions in the nature of animal exhibitions and animal nutrition festivals; teaching and continuing professional education for experts in the field of feedstuff and animal nutrition; arranging and conducting of conferences, congresses, symposiums and colloquiums in the field of animal nutrition and feedstuff; organization of exhibitions for cultural and/or educational purposes; publication of books, newspapers and periodicals; arranging and conducting of seminars and workshops, especially for experts in field of animal nutrition

Class 041 for Education and instruction, namely, conducting conferences, congresses, symposiums and colloquiums in the field of feedstuff and animal nutrition; entertainment in the nature of conducting entertainment exhibitions in the nature of animal exhibitions and animal nutrition festivals; teaching and continuing professional education for experts in the field of feedstuff and animal nutrition; arranging and conducting of conferences, congresses, symposiums and colloquiums in the field of animal nutrition and feedstuff; organization of exhibitions for cultural and/or educational purposes; publication of books, newspapers and periodicals; arranging and conducting of seminars and workshops, especially for experts in field of animal nutrition

Filing Basis Section 66(a), Request for Extension of Protection to the United States. Section 66(a) of the Trademark Act, 15 U.S.C. §1141f.

ADDITIONAL STATEMENTS

The recitation of services has been amended as required by the Examiner. Applicant respectfully requests approval of the trademark application for publication.

SIGNATURE(S)

Response Signature

Signature: /SW/ Date: 04/18/2011

Signatory's Name: Scott D. Woldow

Signatory's Position: Attorney of Record. DC Bar Member

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the

highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the applicant's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the applicant in this matter: (1) the applicant has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the applicant has filed a power of attorney appointing him/her in this matter; or (4) the applicant's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

Serial Number: 79083600

Internet Transmission Date: Mon Apr 18 16:24:09 EDT 2011

TEAS Stamp: USPTO/ROA-64.88.163.230-2011041816240951

4629-79083600-4802ebcf9712334e959656134a

3e321ff-N/A-N/A-20110418162025935656

**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)
OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION**

APPLICATION SERIAL NO. 79083600

MARK: AMINORED

79083600

CORRESPONDENT ADDRESS:

Evonik Degussa GmbH,
DG-IPM-PAT
Rodenbacher Chaussee 4
63457 Hanau
FED REP GERMANY

CLICK HERE TO RESPOND TO THIS LETTER:
<http://www.uspto.gov/teas/eTEASpageD.htm>

APPLICANT: Evonik Degussa GmbH

**CORRESPONDENT'S REFERENCE/DOCKET
NO:**

N/A

CORRESPONDENT E-MAIL ADDRESS:

OFFICE ACTION

STRICT DEADLINE TO RESPOND TO THIS LETTER

TO AVOID ABANDONMENT OF APPLICANT'S TRADEMARK APPLICATION, THE USPTO MUST RECEIVE APPLICANT'S COMPLETE RESPONSE TO THIS LETTER **WITHIN 6 MONTHS** OF THE ISSUE/MAILING DATE BELOW.

ISSUE/MAILING DATE:

INTERNATIONAL REGISTRATION NO. 1041517

This letter responds to the applicant's communication filed January 18, 2011. Receipt of the applicant's response is acknowledged and has been entered.

Upon further review of this application the examining attorney issues the following requirement. The Office apologizes for any inconvenience caused to the applicant.

The examining attorney provided suggested language in the identification of services in the initial office action which was beyond the scope of the applicant's original identification of services and must be deleted.

IDENTIFICATION OF GOODS – MADRID SECTION 66(A)

The identification of goods and/or services is indefinite and must be clarified. *See* TMEP §§1402.01, 1402.03.

The international classification of goods and/or services in applications filed under Trademark Act Section 66(a) cannot be changed from the classification the International Bureau assigned to the goods and/or services in the corresponding international registration. TMEP §§1401.03(d), 1904.02(b).

Therefore, any modification to this wording must identify goods and/or services in International Classes 1, 9, 31, 41, and 42, the classification specified in the application for these goods and/or services.

The bolded wording is suggested language by the examining attorney.

The examining attorney in error suggests wording “and distribution of printed materials in connection therewith in hard copy or electronic format on the same topics” in International Class 41, which was beyond the scope of the applicant’s original application and therefore must be deleted.

The following substitute wording is suggested, if appropriate:

The identification of goods and services in International Class 1, 9, 31, and 42 are acceptable.

Education and instruction, namely, conducting conferences, congresses, symposiums and colloquiums in the field of feedstuff and animal nutrition; entertainment in the nature of conducting entertainment exhibitions in the nature of animal exhibitions and animal nutrition festivals; teaching and continuing professional education for experts in the field of feedstuff and animal nutrition; arranging and conducting of conferences, congresses, symposiums and colloquiums in the field of animal nutrition and feedstuff; organization of exhibitions for cultural and/or educational purposes; publication of books, newspapers and periodicals; arranging and conducting of seminars and workshops, especially for experts in field of animal nutrition.
International Class 41.

Identifications can be amended only to clarify or limit the goods and/or services; adding to or broadening the scope of the goods and/or services is not permitted. 37 C.F.R. §2.71(a); *see* TMEP §§1402.06 *et seq.*, 1402.07(a), 1904.02(b). In addition, for applications filed under Trademark Act Section 66(a), amendments to the identification are limited to goods and/or services in the international class(es) designated in the application as filed. *See* TMEP §§1402.03(d), 1402.07(a).

Thus, applicant can only amend the identification to include goods and/or services that are (1) within the scope of the identification in the application as filed, and (2) classified in an international class designated in the application as filed.

PARTIAL ABANDONMENT

If applicant does not respond to this Office action within the six-month period for response, then the following goods and/or services **will be deleted** from the application:

“and distribution of printed materials in connection therewith in hard copy or electronic format on the same topics.” International Class 41.

The application **will then proceed with** the following goods and/or services only:

The identification of goods and services in International Class 1, 9, 31, and 42 are acceptable.

Education and instruction, namely, conducting conferences, congresses, symposiums and colloquiums in the field of feedstuff and animal nutrition; entertainment in the nature of conducting entertainment exhibitions in the nature of animal exhibitions and animal nutrition festivals; teaching and continuing professional education for experts in the field of feedstuff and animal nutrition; arranging and conducting of conferences, congresses, symposiums and colloquiums in the field of animal nutrition and feedstuff; organization of exhibitions for cultural and/or educational purposes; publication of books, newspapers and periodicals; arranging and conducting of seminars and workshops, especially for experts in field of animal nutrition. International Class 41.

37 C.F.R. §2.65(a).

The following legal authorities govern the processing of trademark and service mark applications by the Office: The Trademark Act, 15 U.S.C. §§1051 *et seq.*, the Trademark Rules of Practice, 37 C.F.R. Part 2, and the Office’s *Trademark Manual of Examining Procedure* (TMEP) (4th ed., 2005), available on the United States Patent and Trademark Office web site at <http://www.uspto.gov/main/trademarks.htm>.

Applicant should include the following information on all correspondence with the Office: (1) the name and law office number of the trademark examining attorney; (2) the serial number of this application; (3) the mailing date of this Office action; and, (4) applicant's telephone number. 37 C.F.R. §2.194(b)(1); TMEP §302.03(a).

If the Applicant has any questions or needs assistance in responding to this Office action, please telephone the assigned examining attorney.

/Warren L. Olandria/
Trademark Attorney
Law Office 112
(571) 272-9718
warren.olandria@uspto.gov

TO RESPOND TO THIS LETTER: Go to <http://www.uspto.gov/teas/eTEASpageD.htm>. Please wait 48-72 hours from the issue/ mailing date before using TEAS, to allow for necessary system updates of the application. For *technical* assistance with online forms, e-mail TEAS@uspto.gov. For questions about the Office action itself, please contact the assigned examining attorney. **Do not respond to this Office action by e-mail; the USPTO does not accept e-mailed responses.**

WHO MUST SIGN THE RESPONSE: It must be personally signed by an individual applicant or someone with legal authority to bind an applicant (i.e., a corporate officer, a general partner, all joint applicants). If an applicant is represented by an attorney, the attorney must sign the response.

PERIODICALLY CHECK THE STATUS OF THE APPLICATION: To ensure that applicant does not miss crucial deadlines or official notices, check the status of the application every three to four months using Trademark Applications and Registrations Retrieval (TARR) at <http://tarr.uspto.gov/>. Please keep a copy of the complete TARR screen. If TARR shows no change for more than six months, call 1-800-786-9199. For more information on checking status, see <http://www.uspto.gov/trademarks/process/status/>.

TO UPDATE CORRESPONDENCE/E-MAIL ADDRESS: Use the TEAS form at <http://www.uspto.gov/teas/eTEASpageE.htm>.

Trademark Snap Shot Amendment & Mail Processing Stylesheet
 (Table presents the data on Amendment & Mail Processing Complete)

OVERVIEW

| | | | |
|---------------|--------------------|---------------|------------|
| SERIAL NUMBER | 79083600 | FILING DATE | 04/10/2010 |
| REG NUMBER | 0000000 | REG DATE | N/A |
| REGISTER | PRINCIPAL | MARK TYPE | TRADEMARK |
| INTL REG # | 1041517 | INTL REG DATE | 04/10/2010 |
| TM ATTORNEY | OLANDRIA, WARREN L | L.O. ASSIGNED | 112 |

PUB INFORMATION

| | |
|----------------------|---|
| RUN DATE | 01/25/2011 |
| PUB DATE | N/A |
| STATUS | 661-RESPONSE AFTER NON-FINAL-ACTION-ENTERED |
| STATUS DATE | 01/24/2011 |
| LITERAL MARK ELEMENT | AMINORED |

| | | | |
|----------------|-----|--------------------|-----|
| DATE ABANDONED | N/A | DATE CANCELLED | N/A |
| SECTION 2F | NO | SECTION 2F IN PART | NO |
| SECTION 8 | NO | SECTION 8 IN PART | NO |
| SECTION 15 | NO | REPUB 12C | N/A |
| RENEWAL FILED | NO | RENEWAL DATE | N/A |
| DATE AMEND REG | N/A | | |

FILING BASIS

| FILED BASIS | | CURRENT BASIS | | AMENDED BASIS | |
|-------------|-----|---------------|-----|---------------|----|
| 1 (a) | NO | 1 (a) | NO | 1 (a) | NO |
| 1 (b) | NO | 1 (b) | NO | 1 (b) | NO |
| 44D | NO | 44D | NO | 44D | NO |
| 44E | NO | 44E | NO | 44E | NO |
| 66A | YES | 66A | YES | | |
| NO BASIS | NO | NO BASIS | NO | | |

MARK DATA

| | |
|-------------------------|----------|
| STANDARD CHARACTER MARK | YES |
| LITERAL MARK ELEMENT | AMINORED |

| | |
|----------------------------------|---|
| MARK DRAWING CODE | 4-STANDARD CHARACTER MARK |
| COLOR DRAWING FLAG | NO |
| CURRENT OWNER INFORMATION | |
| PARTY TYPE | 10-ORIGINAL APPLICANT |
| NAME | Evonik Degussa GmbH |
| ADDRESS | Rellinghauser Straße 1-11 45128 Essen, |
| ENTITY | 16-LTD LIAB CO |
| CITIZENSHIP | Germany |
| GOODS AND SERVICES | |
| INTERNATIONAL CLASS | 001 |
| DESCRIPTION TEXT | Chemicals used in industry and science, as well as in agriculture, horticulture and forestry except for fungicides, herbicides, insecticides, and parasiticides; chemicals for use in industry; Chemicals used in industry, namely, chemicals for industrial purposes; chemicals for use in industry and science; chemical substances for preserving foodstuffs |
| INTERNATIONAL CLASS | 009 |
| DESCRIPTION TEXT | Computer software for use in estimating amino acid content in feedstuff for livestock and in formulating livestock diets in the field of animal nutrition; Diagnostic apparatus for testing feed ingredients; Measuring apparatus, namely, technical measuring, testing and checking apparatus and instruments for measuring, testing and checking feed ingredient raw material and rapid evaluation of digestibility in heat processed raw materials; Testing and food analysis apparatus, namely, apparatus for testing gas, liquid and solids for feed ingredient analysis; Testing and food analysis apparatus, namely, apparatus for testing gas, liquid and solids to detect heat damage in a processed raw material and to adjust amino acid digestibility in order to prevent performance depression of animals fed ingredients; Testing and food analysis apparatus, namely, apparatus for testing animal nutrition liquids and solids; Testing and food analysis apparatus, namely, apparatus for testing gas, liquid and solid raw materials for amino acid content; Scientific instruments, namely, electronic analyzers for testing feed ingredient raw material quality |
| INTERNATIONAL CLASS | 031 |
| DESCRIPTION TEXT | Foodstuffs for animals; additives to fodder, not for medical purposes |
| INTERNATIONAL CLASS | 041 |
| DESCRIPTION TEXT | Education and instruction, namely, conducting conferences, congresses, symposiums and colloquiums in the field of feedstuff and animal nutrition and distribution of printed materials in connection therewith in hard copy or electronic format on the same topics; entertainment in the nature of conducting entertainment exhibitions in the nature of animal |

| | |
|---------------------|--|
| | exhibitions and animal nutrition festivals; teaching and continuing professional education for experts in the field of feedstuff and animal nutrition; arranging and conducting of conferences, congresses, symposiums and colloquiums in the field of animal nutrition and feedstuff; organization of exhibitions for cultural and/or educational purposes; publication of books, newspapers and periodicals; arranging and conducting of seminars and workshops, especially for experts in field of animal nutrition |
| INTERNATIONAL CLASS | 042 |
| DESCRIPTION TEXT | Scientific and technological services and research and design in the field of animal nutrition, feedstuff, and chemicals; industrial analysis and research services in the field of animal nutrition and feedstuff; design and development of computer hardware and software, in particular computer programs, especially as a database for amino acid analysis in feedstuffs for animal nutrition; computer software consultancy; technical consulting services for the animal feed industry about scientific research in the use of animal feed ingredients; chemistry consulting services; bacteriological and/or chemical laboratory research services; physics research; Research, namely, materials testing, analyzing, and evaluation; Industrial analysis, namely, product testing; Scientific and technological services, namely, scientific research, analysis and testing in the fields of feed ingredient raw material and amino acid digestibility; Research, namely, testing of raw materials and feed additives; Industrial analysis, namely, testing or research on machines, apparatus and instruments for raw materials and feed additives |

| GOODS AND SERVICES CLASSIFICATION | | | | | | | |
|--------------------------------------|-----|----------------|------|----------------------------|------|--------------|----------|
| INTERNATIONAL CLASS | 001 | FIRST USE DATE | NONE | FIRST USE IN COMMERCE DATE | NONE | CLASS STATUS | 6-ACTIVE |
| INTERNATIONAL CLASS | 009 | FIRST USE DATE | NONE | FIRST USE IN COMMERCE DATE | NONE | CLASS STATUS | 6-ACTIVE |
| INTERNATIONAL CLASS | 031 | FIRST USE DATE | NONE | FIRST USE IN COMMERCE DATE | NONE | CLASS STATUS | 6-ACTIVE |
| INTERNATIONAL CLASS | 041 | FIRST USE DATE | NONE | FIRST USE IN COMMERCE DATE | NONE | CLASS STATUS | 6-ACTIVE |
| INTERNATIONAL CLASS | 042 | FIRST USE DATE | NONE | FIRST USE IN COMMERCE DATE | NONE | CLASS STATUS | 6-ACTIVE |
| MISCELLANEOUS INFORMATION/STATEMENTS | | | | | | | |

| | |
|------------------------|-----------|
| CHANGE IN REGISTRATION | NO |
| PSEUDO MARK | AMINO RED |

SECTION 66A INTERNATIONAL REGISTRATION DATA

| | |
|----------------------|---|
| INTL REG # | 1041517 |
| INTL REG DATE | 04/10/2010 |
| PRIORITY CLMD | YES |
| PRIOR CLMD DATE | 12/08/2009 |
| INTL STATUS | 001-REQUEST FOR EXTENSION OF PROTECTION PROCESSED |
| INTL STATUS DATE | 07/09/2010 |
| AUTO PROTECTION DATE | 01/08/2012 |
| INTL RENEWAL DATE | 04/10/2020 |
| INTL REG DEATH DATE | N/A |
| FIRST REFUSAL | YES |

PROSECUTION HISTORY

| DATE | ENT CD | ENT TYPE | DESCRIPTION | ENT NUM |
|------------|--------|----------|--|---------|
| 01/24/2011 | TEME | I | TEAS/EMAIL CORRESPONDENCE ENTERED | 013 |
| 01/24/2011 | CRFA | I | CORRESPONDENCE RECEIVED IN LAW OFFICE | 012 |
| 01/19/2011 | ALIE | A | ASSIGNED TO LIE | 011 |
| 01/18/2011 | TROA | I | TEAS RESPONSE TO OFFICE ACTION RECEIVED | 010 |
| 08/06/2010 | RFNT | P | REFUSAL PROCESSED BY IB | 009 |
| 07/16/2010 | MAFR | O | APPLICATION FILING RECEIPT MAILED | 008 |
| 07/15/2010 | RFCS | P | NON-FINAL ACTION MAILED - REFUSAL SENT TO IB | 007 |
| 07/15/2010 | RFRR | P | REFUSAL PROCESSED BY MPU | 006 |
| 07/15/2010 | RFRC | E | NON-FINAL ACTION (IB REFUSAL) PREPARED FOR REVIEW | 005 |
| 07/14/2010 | CNRT | R | NON-FINAL ACTION WRITTEN | 004 |
| 07/12/2010 | DOCK | D | ASSIGNED TO EXAMINER | 003 |
| 07/12/2010 | NWOS | I | NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM | 002 |
| 07/09/2010 | REPR | M | SN ASSIGNED FOR SECT 66A APPL FROM IB | 001 |

CURRENT CORRESPONDENCE INFORMATION

| | |
|------------------------|----------------------|
| ATTORNEY | NONE |
| CORRESPONDENCE ADDRESS | Evonik Degussa GmbH, |

| | |
|-------------------------|--|
| | DG-IPM-PAT Rodenbacher Chaussee 4 63457 Hanau FED REP GERMANY |
| DOMESTIC REPRESENTATIVE | NONE |

AMINORED

Response to Office Action

The table below presents the data as entered.

| Input Field | Entered |
|---|---------------------------------------|
| SERIAL NUMBER | 79083600 |
| LAW OFFICE ASSIGNED | LAW OFFICE 112 |
| MARK SECTION (no change) | |
| OWNER SECTION (current) | |
| NAME | Evonik Degussa GmbH |
| STREET | Rellinghauser Straße 1-11 45128 Essen |
| COUNTRY | Germany |
| OWNER SECTION (proposed) | |
| NAME | Evonik Degussa GmbH |
| STREET | Rellinghauser Straße 1-11 45128 Essen |
| COUNTRY | Germany |
| LEGAL ENTITY SECTION (current) | |
| TYPE | limited liability company |
| LEGAL ENTITY SECTION (proposed) | |
| TYPE | limited liability company |
| STATE/COUNTRY WHERE LEGALLY ORGANIZED | Germany |
| GOODS AND/OR SERVICES SECTION (001)(current) | |
| INTERNATIONAL CLASS | 001 |
| DESCRIPTION | |
| Chemicals used in industry, science and photography, as well as in agriculture, horticulture and forestry; unprocessed artificial resins, unprocessed plastics; manures; fire extinguishing agents; tempering and soldering preparations; chemical substances for preserving foodstuffs; tanning substances; adhesives used in industry | |
| GOODS AND/OR SERVICES SECTION (001)(proposed) | |
| INTERNATIONAL CLASS | 001 |

TRACKED TEXT DESCRIPTION

~~Chemicals used in industry, science and photography, as well as in agriculture, horticulture and forestry; Chemicals used in industry and science, as well as in agriculture, horticulture and forestry except for fungicides, herbicides, insecticides, and parasiticides; unprocessed artificial resins, unprocessed plastics; chemicals for use in industry; manures; Chemicals used in industry, namely, chemicals for industrial purposes; fire extinguishing agents; chemicals for use in industry and science; tempering and soldering preparations; chemical substances for preserving foodstuffs.; chemical substances for preserving foodstuffs; tanning substances; adhesives used in industry~~

FINAL DESCRIPTION

Chemicals used in industry and science, as well as in agriculture, horticulture and forestry except for fungicides, herbicides, insecticides, and parasiticides; chemicals for use in industry; Chemicals used in industry, namely, chemicals for industrial purposes; chemicals for use in industry and science; chemical substances for preserving foodstuffs.

GOODS AND/OR SERVICES SECTION (009)(current)**INTERNATIONAL CLASS**

009

DESCRIPTION

Scientific, nautical, surveying, photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life-saving and teaching apparatus and instruments; apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity; electric installations for the remote control of industrial operations; batteries; apparatus for recording, transmission or reproduction of data, sound or images; magnetic data carriers, recording discs; automatic vending machines and mechanisms for coin-operated apparatus; cash registers, calculating machines, data processing equipment and computers; computer software, computer programs, especially as database for amino acid analysis in feedstuffs for animal nutrition; testing apparatus (not for medical purposes), food analysis apparatus (not for veterinary purposes)

GOODS AND/OR SERVICES SECTION (009)(proposed)**INTERNATIONAL CLASS**

009

TRACKED TEXT DESCRIPTION

~~Scientific, nautical, surveying, photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life-saving and teaching apparatus and instruments; Computer software for use in estimating amino acid content in feedstuff for livestock and in formulating livestock diets in the field of animal nutrition; apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity; Diagnostic apparatus for testing feed ingredients; electric installations for the remote control of industrial operations; Measuring apparatus, namely, technical measuring, testing and checking apparatus and instruments for measuring, testing and checking feed ingredient raw material and rapid evaluation of digestibility in heat processed raw materials; batteries; Testing and food analysis apparatus, namely, apparatus for testing gas, liquid and solids for feed ingredient analysis; apparatus for recording, transmission or reproduction of data, sound or images; Testing and food analysis apparatus, namely, apparatus for testing gas, liquid and solids to detect heat damage in a processed raw material and to adjust amino acid digestibility in order to prevent performance depression of animals fed ingredients; magnetic data carriers, recording discs; Testing and food analysis apparatus, namely, apparatus for testing animal nutrition liquids and solids; automatic~~

~~vending machines and mechanisms for coin-operated apparatus; Testing and food analysis apparatus, namely, apparatus for testing gas, liquid and solid raw materials for amino acid content; cash registers, calculating machines, data processing equipment and computers; Scientific instruments, namely, electronic analyzers for testing feed ingredient raw material quality.; computer software, computer programs, especially as database for amino acid analysis in feedstuffs for animal nutrition; testing apparatus (not for medical purposes), food analysis apparatus (not for veterinary purposes)~~

FINAL DESCRIPTION

Computer software for use in estimating amino acid content in feedstuff for livestock and in formulating livestock diets in the field of animal nutrition; Diagnostic apparatus for testing feed ingredients; Measuring apparatus, namely, technical measuring, testing and checking apparatus and instruments for measuring, testing and checking feed ingredient raw material and rapid evaluation of digestibility in heat processed raw materials; Testing and food analysis apparatus, namely, apparatus for testing gas, liquid and solids for feed ingredient analysis; Testing and food analysis apparatus, namely, apparatus for testing gas, liquid and solids to detect heat damage in a processed raw material and to adjust amino acid digestibility in order to prevent performance depression of animals fed ingredients; Testing and food analysis apparatus, namely, apparatus for testing animal nutrition liquids and solids; Testing and food analysis apparatus, namely, apparatus for testing gas, liquid and solid raw materials for amino acid content; Scientific instruments, namely, electronic analyzers for testing feed ingredient raw material quality.

GOODS AND/OR SERVICES SECTION (031)(current)

| | |
|----------------------------|-----|
| INTERNATIONAL CLASS | 031 |
|----------------------------|-----|

DESCRIPTION

Agricultural, horticultural and forestry products and grains (not included in other classes); foodstuffs for animals, additives to fodder, not for medical purposes, malt

GOODS AND/OR SERVICES SECTION (031)(proposed)

| | |
|----------------------------|-----|
| INTERNATIONAL CLASS | 031 |
|----------------------------|-----|

TRACKED TEXT DESCRIPTION

~~Agricultural, horticultural and forestry products and grains (not included in other classes); Foodstuffs for animals; foodstuffs for animals, additives to fodder, not for medical purposes, malt; additives to fodder, not for medical purposes.~~

FINAL DESCRIPTION

Foodstuffs for animals; additives to fodder, not for medical purposes.

GOODS AND/OR SERVICES SECTION (041)(current)

| | |
|----------------------------|-----|
| INTERNATIONAL CLASS | 041 |
|----------------------------|-----|

DESCRIPTION

Education and instruction; entertainment; teaching and further education for experts in the field of feedstuff; arranging and conducting of conferences, congresses, symposiums and colloquiums, organization of exhibitions for cultural and/or educational purposes, publication of books, newspapers and periodicals; organization of exhibitions for cultural and/or educational purposes, arranging and conducting of seminars and workshops, especially for experts in field of animal nutrition

GOODS AND/OR SERVICES SECTION (041)(proposed)

INTERNATIONAL CLASS

041

TRACKED TEXT DESCRIPTION

~~Education and instruction; Education and instruction, namely, conducting conferences, congresses, symposiums and colloquiums in the field of feedstuff and animal nutrition and distribution of printed materials in connection therewith in hard copy or electronic format on the same topics; entertainment; entertainment in the nature of conducting entertainment exhibitions in the nature of animal exhibitions and animal nutrition festivals; teaching and further education for experts in the field of feedstuff; teaching and continuing professional education for experts in the field of feedstuff and animal nutrition; arranging and conducting of conferences, congresses, symposiums and colloquiums, organization of exhibitions for cultural and/or educational purposes, publication of books, newspapers and periodicals; arranging and conducting of conferences, congresses, symposiums and colloquiums in the field of animal nutrition and feedstuff; organization of exhibitions for cultural and/or educational purposes; arranging and conducting of seminars and workshops, especially for experts in field of animal nutrition; organization of exhibitions for cultural and/or educational purposes; publication of books, newspapers and periodicals; arranging and conducting of seminars and workshops, especially for experts in field of animal nutrition.~~

FINAL DESCRIPTION

Education and instruction, namely, conducting conferences, congresses, symposiums and colloquiums in the field of feedstuff and animal nutrition and distribution of printed materials in connection therewith in hard copy or electronic format on the same topics; entertainment in the nature of conducting entertainment exhibitions in the nature of animal exhibitions and animal nutrition festivals; teaching and continuing professional education for experts in the field of feedstuff and animal nutrition; arranging and conducting of conferences, congresses, symposiums and colloquiums in the field of animal nutrition and feedstuff; organization of exhibitions for cultural and/or educational purposes; publication of books, newspapers and periodicals; arranging and conducting of seminars and workshops, especially for experts in field of animal nutrition.

GOODS AND/OR SERVICES SECTION (042)(current)

INTERNATIONAL CLASS

042

DESCRIPTION

Scientific and technological services and research and design relating thereto; industrial analysis and research services; design and development of computer hardware and software, in particular computer programs, especially as database for amino acid analysis in feedstuffs for animal nutrition, computer software consultancy, technical consulting services for the animal feed industry about the use of animal feed ingredients, chemistry services; engineering services; bacteriological and/or chemical laboratory services; physics research

GOODS AND/OR SERVICES SECTION (042)(proposed)

INTERNATIONAL CLASS

042

TRACKED TEXT DESCRIPTION

~~Scientific and technological services and research and design relating thereto;~~ Scientific and technological services and research and design in the field of animal nutrition, feedstuff, and chemicals;

~~industrial analysis and research services; industrial analysis and research services in the field of animal nutrition and feedstuff; design and development of computer hardware and software, in particular computer programs, especially as database for amino acid analysis in feedstuffs for animal nutrition; computer software consultancy; technical consulting services for the animal feed industry about the use of animal feed ingredients; chemistry services; design and development of computer hardware and software, in particular computer programs, especially as a database for amino acid analysis in feedstuffs for animal nutrition; engineering services; computer software consultancy; bacteriological and/or chemical laboratory services; technical consulting services for the animal feed industry about scientific research in the use of animal feed ingredients; chemistry consulting services; bacteriological and/or chemical laboratory research services; physics research; Research, namely, materials testing, analyzing, and evaluation; Industrial analysis, namely, product testing; Scientific and technological services, namely, scientific research, analysis and testing in the fields of feed ingredient raw material and amino acid digestibility; Research, namely, testing of raw materials and feed additives; Industrial analysis, namely, testing or research on machines, apparatus and instruments for raw materials and feed additives.~~

FINAL DESCRIPTION

Scientific and technological services and research and design in the field of animal nutrition, feedstuff, and chemicals; industrial analysis and research services in the field of animal nutrition and feedstuff; design and development of computer hardware and software, in particular computer programs, especially as a database for amino acid analysis in feedstuffs for animal nutrition; computer software consultancy; technical consulting services for the animal feed industry about scientific research in the use of animal feed ingredients; chemistry consulting services; bacteriological and/or chemical laboratory research services; physics research; Research, namely, materials testing, analyzing, and evaluation; Industrial analysis, namely, product testing; Scientific and technological services, namely, scientific research, analysis and testing in the fields of feed ingredient raw material and amino acid digestibility; Research, namely, testing of raw materials and feed additives; Industrial analysis, namely, testing or research on machines, apparatus and instruments for raw materials and feed additives.

ADDITIONAL STATEMENTS SECTION

| | |
|-----------------------------|---|
| SIGNIFICANCE OF MARK | AMINORED appearing in the mark has no significance in the relevant trade or industry or as applied to the goods/services listed in the application, or any geographical significance. |
|-----------------------------|---|

SIGNATURE SECTION

| | |
|-----------------------------|-----------------------------------|
| RESPONSE SIGNATURE | /SW/ |
| SIGNATORY'S NAME | Scott D. Woldow |
| SIGNATORY'S POSITION | Attorney of Record, DC Bar Member |
| DATE SIGNED | 01/18/2011 |
| AUTHORIZED SIGNATORY | YES |

FILING INFORMATION SECTION

| | |
|--------------------|---|
| SUBMIT DATE | Tue Jan 18 08:57:06 EST 2011 |
| TEAS STAMP | USPTO/ROA-64.88.163.230-2 0110118085706179549-79083 600-4709cc7b23aaa5bdcd422 |

Response to Office Action

To the Commissioner for Trademarks:

Application serial no. **79083600** has been amended as follows:

CLASSIFICATION AND LISTING OF GOODS/SERVICES

Applicant proposes to amend the following class of goods/services in the application:

Current: Class 001 for Chemicals used in industry, science and photography, as well as in agriculture, horticulture and forestry; unprocessed artificial resins, unprocessed plastics; manures; fire extinguishing agents; tempering and soldering preparations; chemical substances for preserving foodstuffs; tanning substances; adhesives used in industry

Original Filing Basis:

Filing Basis Section 66(a), Request for Extension of Protection to the United States. Section 66(a) of the Trademark Act, 15 U.S.C. §1141f.

Proposed:

Tracked Text Description: ~~Chemicals used in industry, science and photography, as well as in agriculture, horticulture and forestry; unprocessed artificial resins, unprocessed plastics; manures; Chemicals used in industry, namely, chemicals for industrial purposes; fire extinguishing agents; chemical substances for preserving foodstuffs; tanning substances; adhesives used in industry~~ Chemicals used in industry and science, as well as in agriculture, horticulture and forestry except for fungicides, herbicides, insecticides, and parasiticides; unprocessed artificial resins, unprocessed plastics; chemicals for use in industry; manures; Chemicals used in industry, namely, chemicals for industrial purposes; fire extinguishing agents; chemicals for use in industry and science; tempering and soldering preparations; chemical substances for preserving foodstuffs.; chemical substances for preserving foodstuffs; tanning substances; adhesives used in industry

Class 001 for Chemicals used in industry and science, as well as in agriculture, horticulture and forestry except for fungicides, herbicides, insecticides, and parasiticides; chemicals for use in industry; Chemicals used in industry, namely, chemicals for industrial purposes; chemicals for use in industry and science; chemical substances for preserving foodstuffs.

Filing Basis Section 66(a), Request for Extension of Protection to the United States. Section 66(a) of the Trademark Act, 15 U.S.C. §1141f.

Applicant proposes to amend the following class of goods/services in the application:

Current: Class 009 for Scientific, nautical, surveying, photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life-saving and teaching apparatus and instruments; apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity; electric installations for the remote control of industrial operations; batteries; apparatus for recording, transmission or reproduction of data, sound or images; magnetic data carriers, recording discs; automatic vending machines and mechanisms for coin-operated apparatus; cash registers, calculating

machines, data processing equipment and computers; computer software, computer programs, especially as database for amino acid analysis in feedstuffs for animal nutrition; testing apparatus (not for medical purposes), food analysis apparatus (not for veterinary purposes)

Original Filing Basis:

Filing Basis Section 66(a), Request for Extension of Protection to the United States. Section 66(a) of the Trademark Act, 15 U.S.C. §1141f.

Proposed:

Tracked Text Description: ~~Scientific, nautical, surveying, photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life-saving and teaching apparatus and instruments; Computer software for use in estimating amino acid content in feedstuff for livestock and in formulating livestock diets in the field of animal nutrition; apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity; Diagnostic apparatus for testing feed ingredients; electric installations for the remote control of industrial operations; Measuring apparatus, namely, technical measuring, testing and checking apparatus and instruments for measuring, testing and checking feed ingredient raw material and rapid evaluation of digestibility in heat processed raw materials; batteries; Testing and food analysis apparatus, namely, apparatus for testing gas, liquid and solids for feed ingredient analysis; apparatus for recording, transmission or reproduction of data, sound or images; Testing and food analysis apparatus, namely, apparatus for testing gas, liquid and solids to detect heat damage in a processed raw material and to adjust amino acid digestibility in order to prevent performance depression of animals fed ingredients; magnetic data carriers, recording discs; Testing and food analysis apparatus, namely, apparatus for testing animal nutrition liquids and solids; automatic vending machines and mechanisms for coin-operated apparatus; Testing and food analysis apparatus, namely, apparatus for testing gas, liquid and solid raw materials for amino acid content; cash registers, calculating machines, data processing equipment and computers; Scientific instruments, namely, electronic analyzers for testing feed ingredient raw material quality.; computer software, computer programs, especially as database for amino acid analysis in feedstuffs for animal nutrition; testing apparatus (not for medical purposes); food analysis apparatus (not for veterinary purposes)~~

Class 009 for Computer software for use in estimating amino acid content in feedstuff for livestock and in formulating livestock diets in the field of animal nutrition; Diagnostic apparatus for testing feed ingredients; Measuring apparatus, namely, technical measuring, testing and checking apparatus and instruments for measuring, testing and checking feed ingredient raw material and rapid evaluation of digestibility in heat processed raw materials; Testing and food analysis apparatus, namely, apparatus for testing gas, liquid and solids for feed ingredient analysis; Testing and food analysis apparatus, namely, apparatus for testing gas, liquid and solids to detect heat damage in a processed raw material and to adjust amino acid digestibility in order to prevent performance depression of animals fed ingredients; Testing and food analysis apparatus, namely, apparatus for testing animal nutrition liquids and solids; Testing and food analysis apparatus, namely, apparatus for testing gas, liquid and solid raw materials for amino acid content; Scientific instruments, namely, electronic analyzers for testing feed ingredient raw material quality.

Filing Basis Section 66(a), Request for Extension of Protection to the United States. Section 66(a) of the Trademark Act, 15 U.S.C. §1141f.

Applicant proposes to amend the following class of goods/services in the application:

Current: Class 031 for Agricultural, horticultural and forestry products and grains (not included in other classes); feedstuffs for animals, additives to fodder, not for medical purposes, malt

Original Filing Basis:

Filing Basis Section 66(a), Request for Extension of Protection to the United States. Section 66(a) of the Trademark Act, 15 U.S.C. §1141f.

Proposed:

Tracked Text Description: ~~Agricultural, horticultural and forestry products and grains (not included in other classes); Foodstuffs for animals; foodstuffs for animals, additives to fodder, not for medical purposes, malt; additives to fodder, not for medical purposes.~~

Class 031 for Foodstuffs for animals; additives to fodder, not for medical purposes.

Filing Basis Section 66(a), Request for Extension of Protection to the United States. Section 66(a) of the Trademark Act, 15 U.S.C. §1141f.

Applicant proposes to amend the following class of goods/services in the application:

Current: Class 041 for Education and instruction; entertainment; teaching and further education for experts in the field of feedstuff; arranging and conducting of conferences, congresses, symposiums and colloquiums, organization of exhibitions for cultural and/or educational purposes, publication of books, newspapers and periodicals; organization of exhibitions for cultural and/or educational purposes, arranging and conducting of seminars and workshops, especially for experts in field of animal nutrition
Original Filing Basis:

Filing Basis Section 66(a), Request for Extension of Protection to the United States. Section 66(a) of the Trademark Act, 15 U.S.C. §1141f.

Proposed:

Tracked Text Description: ~~Education and instruction; Entertainment; Education and instruction, namely, conducting conferences, congresses, symposiums and colloquiums in the field of feedstuff and animal nutrition and distribution of printed materials in connection therewith in hard copy or electronic format on the same topics; Entertainment; Entertainment in the nature of conducting entertainment exhibitions in the nature of animal exhibitions and animal nutrition festivals; teaching and further education for experts in the field of feedstuff; teaching and continuing professional education for experts in the field of feedstuff and animal nutrition; arranging and conducting of conferences, congresses, symposiums and colloquiums; organization of exhibitions for cultural and/or educational purposes, publication of books, newspapers and periodicals; arranging and conducting of conferences, congresses, symposiums and colloquiums in the field of animal nutrition and feedstuff; organization of exhibitions for cultural and/or educational purposes; arranging and conducting of seminars and workshops, especially for experts in field of animal nutrition; organization of exhibitions for cultural and/or educational purposes; publication of books, newspapers and periodicals; arranging and conducting of seminars and workshops, especially for experts in field of animal nutrition.~~

Class 041 for Education and instruction, namely, conducting conferences, congresses, symposiums and colloquiums in the field of feedstuff and animal nutrition and distribution of printed materials in connection therewith in hard copy or electronic format on the same topics; entertainment in the nature of conducting entertainment exhibitions in the nature of animal exhibitions and animal nutrition festivals; teaching and continuing professional education for experts in the field of feedstuff and animal nutrition; arranging and conducting of conferences, congresses, symposiums and colloquiums in the field of animal nutrition and feedstuff; organization of exhibitions for cultural and/or educational purposes; publication of books, newspapers and periodicals; arranging and conducting of seminars and workshops, especially for experts in field of animal nutrition.

Filing Basis Section 66(a), Request for Extension of Protection to the United States. Section 66(a) of the Trademark Act, 15 U.S.C. §1141f.

Applicant proposes to amend the following class of goods/services in the application:

Current: Class 042 for Scientific and technological services and research and design relating thereto; industrial analysis and research services; design and development of computer hardware and software, in particular computer programs, especially as database for amino acid analysis in feedstuffs for animal nutrition, computer software consultancy, technical consulting services for the animal feed industry about the use of animal feed ingredients, chemistry services; engineering services; bacteriological and/or chemical laboratory services; physics research

Original Filing Basis:

Filing Basis Section 66(a), Request for Extension of Protection to the United States. Section 66(a) of the Trademark Act, 15 U.S.C. §1141f.

Proposed:

Tracked Text Description: ~~Scientific and technological services and research and design relating thereto; Scientific and technological services and research and design in the field of animal nutrition, feedstuff, and chemicals; industrial analysis and research services; industrial analysis and research services in the field of animal nutrition and feedstuff; design and development of computer hardware and software, in particular computer programs, especially as database for amino acid analysis in feedstuffs for animal nutrition, computer software consultancy, technical consulting services for the animal feed industry about the use of animal feed ingredients, chemistry services; design and development of computer hardware and software, in particular computer programs, especially as a database for amino acid analysis in feedstuffs for animal nutrition; engineering services; computer software consultancy; bacteriological and/or chemical laboratory services; technical consulting services for the animal feed industry about scientific research in the use of animal feed ingredients; chemistry consulting services; bacteriological and/or chemical laboratory research services; physics research; Research, namely, materials testing, analyzing, and evaluation; Industrial analysis, namely, product testing; Scientific and technological services, namely, scientific research, analysis and testing in the fields of feed ingredient raw material and amino acid digestibility; Research, namely, testing of raw materials and feed additives; Industrial analysis, namely, testing or research on machines, apparatus and instruments for raw materials and feed additives.~~

Class 042 for Scientific and technological services and research and design in the field of animal nutrition, feedstuff, and chemicals; industrial analysis and research services in the field of animal nutrition and feedstuff; design and development of computer hardware and software, in particular computer programs, especially as a database for amino acid analysis in feedstuffs for animal nutrition; computer software consultancy; technical consulting services for the animal feed industry about scientific research in the use of animal feed ingredients; chemistry consulting services; bacteriological and/or chemical laboratory research services; physics research; Research, namely, materials testing, analyzing, and evaluation; Industrial analysis, namely, product testing; Scientific and technological services, namely, scientific research, analysis and testing in the fields of feed ingredient raw material and amino acid digestibility; Research, namely, testing of raw materials and feed additives; Industrial analysis, namely, testing or research on machines, apparatus and instruments for raw materials and feed additives.

Filing Basis Section 66(a), Request for Extension of Protection to the United States. Section 66(a) of the Trademark Act, 15 U.S.C. §1141f.

APPLICANT AND/OR ENTITY INFORMATION

Applicant proposes to amend the following:

Current: Evonik Degussa GmbH, a limited liability company having an address of
Rellinghauser Straße 1-11 45128 Essen
,
Germany

Proposed: Evonik Degussa GmbH, a limited liability company legally organized under the laws of
Germany, having an address of
Rellinghauser Straße 1-11 45128 Essen
Germany

ADDITIONAL STATEMENTS

Significance of wording, letter(s), or numeral(s)

AMINORED appearing in the mark has no significance in the relevant trade or industry or as applied to the goods/services listed in the application, or any geographical significance.

SIGNATURE(S)

Response Signature

Signature: /SW/ Date: 01/18/2011

Signatory's Name: Scott D. Woldow

Signatory's Position: Attorney of Record, DC Bar Member

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the applicant's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the applicant in this matter: (1) the applicant has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the applicant has filed a power of attorney appointing him/her in this matter; or (4) the applicant's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

Serial Number: 79083600

Internet Transmission Date: Tue Jan 18 08:57:06 EST 2011

TEAS Stamp: USPTO/ROA-64.88.163.230-2011011808570617

9549-79083600-4709cc7b23aaa5bdcd422fd941

86a894711-N/A-N/A-20110118083433070035

NOTICE THAT TRANSACTION HAS BEEN PROCESSED BY IB

SERIAL NUMBER: 79083600

The table below presents the data as entered.

| | |
|--------------------------------------|----------------------|
| INTERNATIONAL REGISTRATION NUMBER | 1041517 |
| EFFECTIVE DATE OF MODIFICATION | 07/15/2010 |
| IB DOCUMENT ID | 556142901 |
| OFFICE REFERENCE | 79083600 |
| TRANSACTION TYPE | RFNT - Total Refusal |

FILING RECEIPT FOR TRADEMARK APPLICATION

Jul 16, 2010

This acknowledges receipt on the FILING DATE of the application for registration for the mark identified below. The FILING DATE is contingent upon all minimum filing date requirements being met. Your application will be considered in the order in which it was received. Please review the status of your application every six months from the filing date of your application. You can check the status of your application on-line at <http://tarr.uspto.gov/> or by contacting the Trademark Assistance Center at 1-800-786-9199. Also, documents in the electronic file for pending applications can be viewed and downloaded at <http://www.uspto.gov/>.

Evonik Degussa GmbH,
DG-IPM-PAT
Rodenbacher Chaussee 4
63457 Hanau
FED REP GERMANY

**ATTORNEY
REFERENCE NUMBER**

PLEASE REVIEW THE ACCURACY OF THE FILING RECEIPT DATA.

A request for correction to the filing receipt should be submitted within 30 days. Such requests may be submitted by mail to: COMMISSIONER FOR TRADEMARKS, P.O. BOX 1451, ALEXANDRIA, VIRGINIA 22313-1451; by fax to 571-273-9913; or by e-mail to tmfiling_receipt@uspto.gov. The USPTO will review the request and make corrections when appropriate.

SERIAL NUMBER: 79/083600
FILING DATE: Apr 10, 2010
REGISTER: Principal
MARK: AMINORED
MARK TYPE(S): Trademark; Service Mark
DRAWING TYPE: Standard Character Mark
FILING BASIS: Sect. 66(a)(Madrid Protocol)

OWNER: Evonik Degussa GmbH (NOT PROVIDED, Limited Liability Company)
Rellinghauser Straße 1-11
45128 Essen
, FED REP GERMANY

FOR: Chemicals used in industry, science and photography, as well as in agriculture, horticulture and forestry; unprocessed artificial resins, unprocessed plastics; manures; fire extinguishing agents; tempering and soldering preparations; chemical substances for preserving foodstuffs; tanning substances; adhesives used in industry

INT. CLASS: 001

FIRST USE: NONE USE IN COMMERCE: NONE

FOR: Scientific, nautical, surveying, photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life-saving and teaching apparatus and instruments; apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity; electric installations for the remote control of industrial operations; batteries; apparatus for recording, transmission or reproduction of data, sound or images; magnetic data carriers, recording discs; automatic vending machines and mechanisms for coin-operated apparatus; cash registers, calculating machines, data processing equipment and computers; computer software, computer programs, especially as database for amino acid analysis in feedstuffs for animal nutrition; testing apparatus (not for medical purposes), food analysis apparatus (not for veterinary purposes)

INT. CLASS: 009

FIRST USE: NONE USE IN COMMERCE: NONE

FOR: Agricultural, horticultural and forestry products and grains (not included in other classes); foodstuffs for animals, additives to fodder, not for medical purposes, malt

INT. CLASS: 031

FIRST USE: NONE USE IN COMMERCE: NONE

FOR: Education and instruction; entertainment; teaching and further education for experts in the field of feedstuff; arranging and conducting of conferences, congresses, symposiums and colloquiums, organization of exhibitions for cultural

and/or educational purposes, publication of books, newspapers and periodicals; organization of exhibitions for cultural and/or educational purposes, arranging and conducting of seminars and workshops, especially for experts in field of animal nutrition

INT. CLASS: 041

FIRST USE: NONE USE IN COMMERCE: NONE

FOR: Scientific and technological services and research and design relating thereto; industrial analysis and research services; design and development of computer hardware and software, in particular computer programs, especially as database for amino acid analysis in feedstuffs for animal nutrition, computer software consultancy, technical consulting services for the animal feed industry about the use of animal feed ingredients, chemistry services; engineering services; bacteriological and/or chemical laboratory services; physics research

INT. CLASS: 042

FIRST USE: NONE USE IN COMMERCE: NONE

ALL OF THE GOODS/SERVICES IN EACH CLASS ARE LISTED

OTHER DATA

Pseudo Mark: AMINO RED

Warning: You may receive unsolicited communications from companies requesting fees for trademark related services, such as monitoring and document filing. Although solicitations from these companies frequently display customer-specific information, including USPTO serial number or registration number and owner name, companies who offer these services are not affiliated or associated with the USPTO or any other federal agency. The USPTO does not provide trademark monitoring or any similar services.

For document filing, such companies typically charge a service fee in addition to applicable USPTO fees. You can electronically file directly with the USPTO using forms available through the Trademark Electronic Application System (TEAS), accessible via the USPTO website at www.uspto.gov <<http://www.uspto.gov>>. Only applicable fees required by law, and no service fees, are charged. Status can be monitored directly at no cost through Trademark Application Registration Retrieval (TARR). For general information on filing and maintenance requirements for U.S. trademark applications and registrations, including required fees, please consult the USPTO website.

INTERNATIONAL OR FOREIGN REGISTRATION DATA

INTERNATIONAL REG. NUMBER: 1041517

Note on representation: An attorney who is a member in good standing of the bar of the highest court of any U.S. state may practice before the USPTO in trademark matters. See http://tess2.uspto.gov/tmdb/tmep/0600.htm#_T60206 for more information on foreign attorneys and persons who may practice before the Office.

ADDITIONAL INFORMATION MAY BE PRESENT IN THE USPTO RECORDS

PROVISIONAL REFUSAL OF PROTECTION

The table below presents the data as entered.

| Input Field | Entered |
|---|--|
| IDENTIFICATION SECTION | |
| INTERNATIONAL REGISTRATION NUMBER | 1041517 |
| OFFICE REFERENCE | 79083600 |
| ORIGINAL LANGUAGE CODE | ENGLISH |
| FILE SECTION | |
| FILE SPECIFICATION OF THE DOCUMENT | <u>\\TICRS\EXPORT11\IMAGEOUT11\790\836\79083600\xml6\MOC0002.xml</u> |
| GOODS AND SERVICES SECTION | |
| ALL GOODS AND SERVICES INDICATOR | Protection has been refused for all the goods and services. |
| INSTRUCTIONS SECTION | |
| FREE TEXT PROCESSING INSTRUCTIONS | U. S. designated on 20100410; Non-final examiner action |
| MAIL DATE | 07/15/2010 |

UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)
OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION

APPLICATION SERIAL NO. 79083600

MARK: AMINORED

79083600

CORRESPONDENT ADDRESS:

Evonik Degussa GmbH,
DG-IPM-PAT
Rodenbacher Chaussee 4
63457 Hanau
FED REP GERMANY

CLICK HERE TO RESPOND TO THIS LETTER:
<http://www.uspto.gov/tcas/eTEASpageD.htm>

APPLICANT: Evonik Degussa GmbH

**CORRESPONDENT'S REFERENCE/DOCKET
NO:**

N/A

CORRESPONDENT E-MAIL ADDRESS:

OFFICE ACTION

STRICT DEADLINE TO RESPOND TO THIS LETTER

TO AVOID ABANDONMENT OF APPLICANT'S TRADEMARK APPLICATION, THE USPTO MUST RECEIVE APPLICANT'S COMPLETE RESPONSE TO THIS LETTER **WITHIN 6 MONTHS** OF THE ISSUE/MAILING DATE BELOW.

ISSUE/MAILING DATE:

INTERNATIONAL REGISTRATION NO. 1041517

This is a **PROVISIONAL FULL REFUSAL** of the trademark and/or service mark in the above-referenced U.S. application. *See* 15 U.S.C. §1141h(c).

WHO IS PERMITTED TO RESPOND TO THIS PROVISIONAL FULL REFUSAL:

Applicant may respond directly to this provisional refusal Office action if applicant is not represented by an authorized attorney. *See* 37 C.F.R. §2.193(e)(2)(ii). Otherwise, applicant's authorized attorney must respond on applicant's behalf. *See* 37 C.F.R. §2.193(e)(2)(i). However, **the only attorneys who are authorized to sign responses and practice before the USPTO** in trademark matters are as follows:

- (1) **Attorneys in good standing with a bar of the highest court of any U.S. state**, the District of Columbia, Puerto Rico, and other federal territories and possessions of the United States; and
- (2) **Canadian agents/attorneys** who represent applicants located in Canada and (a) are registered with the USPTO and in good standing as patent agents or (b) have been granted reciprocal recognition by the USPTO.

See 37 C.F.R. §§2.17(e), 2.62(b), 11.1, 11.5(b)(2), 11.14(a), (c); TMEP §§602, 712.03.

Foreign attorneys, other than authorized Canadian attorneys, are not permitted to represent applicants before the USPTO. *See* 37 C.F.R. §§2.17(e), 11.14(c), (e); TMEP §602.03-.03(b). That is, foreign attorneys may not file written communications, authorize an amendment to an application, or submit legal arguments in response to a requirement or refusal, among other things. *See* 37 C.F.R. §11.5(b)(2); TMEP §§602.03(c), 608.01. If applicant is represented by such a foreign attorney, applicant must respond directly to this provisional refusal Office action. *See* 37 C.F.R. §2.193(e)(2)(ii).

THE APPLICATION HAS BEEN PROVISIONALLY REFUSED AS FOLLOWS:

The referenced application has been reviewed by the assigned trademark examining attorney. Applicant must respond timely and completely to the issue(s) below. 15 U.S.C. §1062(b); 37 C.F.R. §§2.62, 2.65(a); TMEP §§711, 718.03.

The Office records have been searched and there are no similar registered or pending marks that would bar registration under Trademark Act Section 2(d), 15 U.S.C. §1052(d). TMEP §704.02.

INFORMALITIES

LLC - US STATE OR COUNTRY OF ORGANIZATION NEEDED

Applicant must specify the Country or U.S. state under whose laws the limited liability company is organized. TMEP §803.03(h).

IDENTIFICATION OF GOODS – MADRID SECTION 66(A)

The identification of goods and/or services is indefinite and must be clarified. *See* TMEP §§1402.01, 1402.03.

The international classification of goods and/or services in applications filed under Trademark Act Section 66(a) cannot be changed from the classification the International Bureau assigned to the goods and/or services in the corresponding international registration. TMEP §§1401.03(d), 1904.02(b).

Therefore, any modification to this wording must identify goods and/or services in International Classes 1, 9, 31, 41, and 42, the classification specified in the application for these goods and/or services.

The duplicate wording “organization of exhibitions for cultural and/or educational purposes” must be

deleted.

The bolded wording is suggested language by the examining attorney.

The following substitute wording is suggested, if appropriate:

Chemicals used in industry, science and photography, as well as in agriculture, horticulture and forestry **except for fungicides, herbicides, insecticides, and parasiticides**; kieselgur, **namely, diatomaceous earth**; chemicals for **use in** the manufacture of glass, silicic acids, aqueous colloidal silica; unprocessed artificial resins, unprocessed plastics; manures; fire extinguishing compositions; Tempering **chemicals for use in metalworking or soldering and soldering chemicals**; chemical substances for preserving foodstuffs; **Tanning agents for use in the manufacture of leather**; adhesives used in industry. International Class 1.

Scientific, nautical, surveying, photographic, cinematographic, optical, weighing, measuring signalling, checking **and supervision**, life-saving and teaching apparatus and instruments, **namely {specify goods, please consult online ID manual for acceptable language}**; observation instruments, **namely, {please specify all “observation instruments” classified in International Class 9, e.g. binoculars}**; apparatus and instruments for astronomy, **namely, telescopes**; optical goods, **namely, {please specify all “optical goods” classified in International Class 9, e.g. Optical apparatus and instruments, namely, optical ports for underwater photography, dome ports for underwater photography, wet diopters, adapter lenses for underwater photography }**, prisms **for optics purposes, optical mirrors, objective lenses**, spectacles, spectacle glasses, optical lenses, contact lenses, optical lamps, thermionic lamps and tubes; apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity; electric accumulators, grids for batteries, chargers and **plates** for electric accumulators, **galvanic batteries**, battery jars and boxes, batteries, photovoltaic cells; chemistry apparatus and instruments, **namely, {please specify all “chemistry apparatus and instruments” classified in International Class 9, e.g. “chemical vapor deposition apparatus for use in research”}**; measuring glassware, electric installations for the remote control of industrial operations, mirrors for inspecting work, glass covered with an electrical conductor; apparatus for recording, transmission or reproduction of data, sound or images; **optical data media, namely, blank optical data carriers; fiber optic cables** and optical fibers, **blank magnetic data carriers, blank record disks**; automatic vending machines and mechanisms for coin operated apparatus; cash registers, calculating machines, data processing equipment and computers, optical discs for data processing, computer software **for {specify the function of the programs, e.g., use in database management, use as a spreadsheet, word processing, etc. and, if software is content- or field-specific, the content or field of use}**; fire-extinguishing apparatus. International Class 9.

Agricultural, horticultural and forestry products and grains **not included in other classes, namely, {specify goods acceptable in Class 031, i.e., agricultural seeds, agricultural grains for planting, spores and spawn for agricultural purposes, bulbs and seeds for horticultural purposes}**; foodstuffs for animals; additives to fodder, not for medical purposes; malt **for brewing**

and distilling. International Class 31.

Education and instruction, **namely, conducting {indicate specific mode of instructions, e.g., classes, seminars, conferences, workshops} in the field of {indicate specific field, e.g. pet care, math, tax preparation} and distribution of printed materials in connection therewith in hard copy or electronic format on the same topics; entertainment in the nature of {indicate specific event or act, and field, e.g. musical group, television comedy series, ethnic festival};** teaching and **continuing professional** education for experts in the field of feedstuff; arranging and conducting of conferences, congresses, symposiums and colloquiums **in the field of {indicate subject matter or field};** organization of exhibitions for cultural and/or educational purposes; publication of books, newspapers and periodicals; arranging and conducting of seminars and workshops, especially for experts in field of animal nutrition. International Class 41.

Scientific and technological services and research and design **in the field of {specify the subject matter or field of the research and design services, e.g., biotechnology research, isotopic analysis of chemical products, bacteriology, etc.};** industrial analysis and research services **in the field of {specify the subject matter or field of use, e.g., biotechnology research, isotopic analysis of chemical products, bacteriology, etc.};** design and development of computer hardware and software, in particular computer programs, especially as database for amino acid analysis in feedstuffs for animal nutrition; computer software consultancy; technical consulting services for the animal feed industry about the **scientific research** in the use of animal feed ingredients; chemistry **consulting** services; engineering services; bacteriological and/or chemical laboratory **research** services; physics research. International Class 42.

Identifications can be amended only to clarify or limit the goods and/or services; adding to or broadening the scope of the goods and/or services is not permitted. 37 C.F.R. §2.71(a); *see* TMEP §§1402.06 *et seq.*, 1402.07(a), 1904.02(b). In addition, for applications filed under Trademark Act Section 66(a), amendments to the identification are limited to goods and/or services in the international class(es) designated in the application as filed. *See* TMEP §§1402.03(d), 1402.07(a).

Thus, applicant can only amend the identification to include goods and/or services that are (1) within the scope of the identification in the application as filed, and (2) classified in an international class designated in the application as filed.

EXPLANATION OF MARK'S SIGNIFICANCE REQUIRED

Applicant must explain whether “AMINORED” has any meaning or significance in the industry in which the goods and/or services are manufactured/provided, or if such wording is a “term of art” within applicant’s industry. Applicant must also explain whether this wording identifies a geographic place. *See* 37 C.F.R. §2.61(b); TMEP §814.

Further, applicant must provide additional information about this wording to enable proper examination of the application. Specifically, applicant must respond to the following questions:

- Does the term AMINORED have any meaning in a foreign language?

Failure to respond to this request for information can be grounds for refusing registration. *See In re DTI P'ship LLP*, 67 USPQ2d 1699, 1701 (TTAB 2003); TMEP §814.

The following legal authorities govern the processing of trademark and service mark applications by the Office: The Trademark Act, 15 U.S.C. §§1051 *et seq.*, the Trademark Rules of Practice, 37 C.F.R. Part 2, and the Office's *Trademark Manual of Examining Procedure* (TMEP) (4th ed., 2005), available on the United States Patent and Trademark Office web site at <http://www.uspto.gov/main/trademarks.htm>.

Applicant should include the following information on all correspondence with the Office: (1) the name and law office number of the trademark examining attorney; (2) the serial number of this application; (3) the mailing date of this Office action; and, (4) applicant's telephone number. 37 C.F.R. §2.194(b)(1); TMEP §302.03(a).

If the Applicant has any questions or needs assistance in responding to this Office action, please telephone the assigned examining attorney.

/Warren L. Olandria/
Trademark Attorney
Law Office 112
(571) 272-9718
warren.olandria@uspto.gov

TO RESPOND TO THIS LETTER: Use the Trademark Electronic Application System (TEAS) response form at <http://teasroa.uspto.gov/roa/>. Please wait 48-72 hours from the issue/ mailing date before using TEAS, to allow for necessary system updates of the application. For *technical* assistance with online forms, e-mail TEAS@uspto.gov.

WHO MUST SIGN THE RESPONSE: It must be personally signed by an individual applicant or someone with legal authority to bind an applicant (i.e., a corporate officer, a general partner, all joint applicants). If an applicant is represented by an attorney, the attorney must sign the response.

PERIODICALLY CHECK THE STATUS OF THE APPLICATION: To ensure that applicant does not miss crucial deadlines or official notices, check the status of the application every three to four months using Trademark Applications and Registrations Retrieval (TARR) at <http://tarr.uspto.gov/>. Please keep a copy of the complete TARR screen. If TARR shows no change for more than six months, call 1-800-786-

9199. For more information on checking status, see <http://www.uspto.gov/trademarks/process/status/>.

TO UPDATE CORRESPONDENCE/E-MAIL ADDRESS: Use the TEAS form at <http://www.uspto.gov/teas/eTEASpageE.htm>.

UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)
OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION

APPLICATION SERIAL NO. 79083600

MARK: AMINORED

79083600

CORRESPONDENT ADDRESS:

Evonik Degussa GmbH,
DG-IPM-PAT
Rodenbacher Chaussee 4
63457 Hanau
FED REP GERMANY

CLICK HERE TO RESPOND TO THIS LETTER:
<http://www.uspto.gov/teas/eTEASpageD.htm>

APPLICANT: Evonik Degussa GmbH

**CORRESPONDENT'S REFERENCE/DOCKET
NO:**

N/A

CORRESPONDENT E-MAIL ADDRESS:

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and distilling. International Class 31.

Education and instruction, **namely, conducting {indicate specific mode of instructions, e.g., classes, seminars, conferences, workshops} in the field of {indicate specific field, e.g. pet care, math, tax preparation} and distribution of printed materials in connection therewith in hard copy or electronic format on the same topics**; entertainment in the nature of **{indicate specific event or act, and field, e.g. musical group, television comedy series, ethnic festival}**; teaching and **continuing professional** education for experts in the field of feedstuff; arranging and conducting of conferences, congresses, symposiums and colloquiums **in the field of {indicate subject matter or field}**; organization of exhibitions for cultural and/or educational purposes; publication of books, newspapers and periodicals; arranging and conducting of seminars and workshops, especially for experts in field of animal nutrition. International Class 41.

Scientific and technological services and research and design **in the field of {specify the subject matter or field of the research and design services, e.g., biotechnology research, isotopic analysis of chemical products, bacteriology, etc.}**; industrial analysis and research services **in the field of {specify the subject matter or field of use, e.g., biotechnology research, isotopic analysis of chemical products, bacteriology, etc.}**; design and development of computer hardware and software, in particular computer programs, especially as database for amino acid analysis in feedstuffs for animal nutrition; computer software consultancy; technical consulting services for the animal feed industry about the **scientific research** in the use of animal feed ingredients; chemistry **consulting** services; engineering services; bacteriological and/or chemical laboratory **research** services; physics research. International Class 42.

Identifications can be amended only to clarify or limit the goods and/or services; adding to or broadening the scope of the goods and/or services is not permitted. 37 C.F.R. §2.71(a); *see* TMEP §§1402.06 *et seq.*, 1402.07(a), 1904.02(b). In addition, for applications filed under Trademark Act Section 66(a), amendments to the identification are limited to goods and/or services in the international class(es) designated in the application as filed. *See* TMEP §§1402.03(d), 1402.07(a).

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If the Applicant has any questions or needs assistance in responding to this Office action, please telephone the assigned examining attorney.

/Warren L. Olandria/
Trademark Attorney
Law Office 112
(571) 272-9718
warren.olandria@uspto.gov

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WHO MUST SIGN THE RESPONSE: It must be personally signed by an individual applicant or someone with legal authority to bind an applicant (i.e., a corporate officer, a general partner, all joint applicants). If an applicant is represented by an attorney, the attorney must sign the response.

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9199. For more information on checking status, see <http://www.uspto.gov/trademarks/process/status/>.

TO UPDATE CORRESPONDENCE/E-MAIL ADDRESS: Use the TEAS form at <http://www.uspto.gov/teas/eTEASpageE.htm>.

*** User:wolandria ***

| # | Total Marks | Dead Marks | Live Viewed Docs | Live Viewed Images | Status/ Search Duration | Search |
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| 02 | 4 | 0 | 4 | 4 | 0:02 | *amino*[bi,ti] and *red*[bi,ti] not dead[lid] |
| 03 | 1228 | N/A | 0 | 0 | 0:01 | *am{"iey"}n{v}*[bi,ti] not dead[lid] |
| 04 | 19869 | N/A | 0 | 0 | 0:04 | *red*[bi,ti] not dead[lid] |
| 05 | 9 | 0 | 9 | 9 | 0:01 | 3 and 4 not dead[lid] |
| 06 | 137 | 0 | 137 | 100 | 0:04 | "amino"[bi,ti] not dead[lid] |
| 07 | 179 | N/A | 0 | 0 | 0:02 | am{"iey"}no*[bi,ti] not dead[lid] |
| 08 | 41 | 0 | 41 | 21 | 0:01 | 7 not (6 or 5) not dead[lid] |

Session started 7/14/2010 5:12:33 PM

Session finished 7/14/2010 6:53:52 PM

Total search duration 0 minutes 18 seconds

Session duration 101 minutes 19 seconds

Default NEAR limit=1 ADJ limit=1

Sent to TICRS as Serial Number: 79083600

*** User:wolandria ***

| # | Total Marks | Dead Marks | Live Viewed Docs | Live Viewed Images | Status/ Search Duration | Search |
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| 02 | 4 | 0 | 4 | 4 | 0:02 | *amino*[bi,ti] and *red*[bi,ti] not dead[ld] |
| 03 | 1228 | N/A | 0 | 0 | 0:01 | *am{"iey"}n{v}*[bi,ti] not dead[ld] |
| 04 | 19869 | N/A | 0 | 0 | 0:04 | *red*[bi,ti] not dead[ld] |
| 05 | 9 | 0 | 9 | 9 | 0:01 | 3 and 4 not dead[ld] |
| 06 | 137 | 0 | 137 | 100 | 0:04 | "amino"[bi,ti] not dead[ld] |

Session started 7/14/2010 5:12:33 PM

Session finished 7/14/2010 6:52:07 PM

Total search duration 0 minutes 15 seconds

Session duration 99 minutes 34 seconds

Default NEAR limit=1ADJ limit=1

Sent to TICRS as Serial Number: 79083600

*** User:wolandria ***

| # | Total Marks | Dead Marks | Live Viewed Docs | Live Viewed Images | Status/ Search Duration | Search |
|----|----------------|---------------|------------------------|--------------------------|-------------------------------|--|
| 01 | 1 | 0 | 1 | 1 | 0:03 | *aminored*[bi,ti] not dead[ld] |
| 02 | 4 | 0 | 4 | 4 | 0:02 | *amino*[bi,ti] and *red*[bi,ti] not dead[ld] |
| 03 | 1228 | N/A | 0 | 0 | 0:01 | *am{"iey"}n{v}*[bi,ti] not dead[ld] |
| 04 | 19869 | N/A | 0 | 0 | 0:04 | *red*[bi,ti] not dead[ld] |
| 05 | 9 | 0 | 9 | 9 | 0:01 | 3 and 4 not dead[ld] |

Session started 7/14/2010 5:12:33 PM

Session finished 7/14/2010 5:14:30 PM

Total search duration 0 minutes 11 seconds

Session duration 1 minutes 57 seconds

Default NEAR limit=1ADJ limit=1

Sent to TICRS as Serial Number: 79083600

REQUEST FOR EXTENSION OF PROTECTION

SERIAL NUMBER: 79083600

FILING DATE: 04/10/2010

The table below presents the data as entered.

MARK SECTION

| | |
|--|--|
| IMAGE | <u>\\TICRS\EXPORT11\IMAGEOUT11\790\836\79083600\xml1\APP0002.JPG</u> |
| COLLECTIVE, CERTIFICATE OR GUARANTEE MARK | NO |
| MARK IN STANDARD CHARACTERS | YES |
| MARK IN COLOR | NO |
| THREE DIMENSIONAL MARK | NO |
| SOUND MARK | NO |
| THE WORDS CONTAINED IN THE MARK HAVE NO MEANING | YES |
| TM IMAGE: COLOR | NO |
| IMAGE FILE NAME | \\TICRS\EXPORT11\IMAGEOUT11\790\836\79083600\xml1\APP0002.JPG |
| TYPE (IMAGE TYPE) | JPG |
| TEXTUAL ELEMENTS OF MARK | AMINORED |

HOLDER DETAILS

| | |
|--------------------------|--|
| CLIENT IDENTIFIER | 654049 |
| NOTIFICATION LANGUAGE | ENGLISH |
| NAME | Evonik Degussa GmbH |
| ADDRESS | Rellinghauser Straße 1-11 45128 Essen |

| | |
|--|---------------------------|
| COUNTRY | Germany |
| ENTITLEMENT ESTABLISHMENT | Germany |
| LEGAL NATURE | Limited liability company |
| LEGAL NATURE: PLACE INCORPORATED | Not provided |

BASIC GOODS AND SERVICES

VERSION OF NICE
CLASSIFICATION
USED

9

NICE
CLASSIFICATION

01

GOODS AND
SERVICES

Chemicals used in industry, science and photography, as well as in agriculture, horticulture and forestry; unprocessed artificial resins, unprocessed plastics; manures; fire extinguishing agents; tempering and soldering preparations; chemical substances for preserving foodstuffs; tanning substances; adhesives used in industry.

NICE
CLASSIFICATION

09

GOODS AND
SERVICES

Scientific, nautical, surveying, photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life-saving and teaching apparatus and instruments; apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity; electric installations for the remote control of industrial operations; batteries; apparatus for recording, transmission or reproduction of data, sound or images; magnetic data carriers, recording discs; automatic vending machines and mechanisms for coin-operated apparatus; cash registers, calculating machines, data processing equipment and computers; computer software, computer programs, especially as database for amino acid analysis in feedstuffs for animal nutrition; testing apparatus (not for medical purposes), food analysis apparatus (not for veterinary purposes).

NICE
CLASSIFICATION

31

GOODS AND
SERVICES

Agricultural, horticultural and forestry products and grains (not included in other classes); foodstuffs for animals, additives to fodder, not for medical purposes, malt.

NICE
CLASSIFICATION

41

GOODS AND

Education and instruction; entertainment; teaching and further education for experts in the field of feedstuff; arranging and conducting of conferences, congresses, symposiums and colloquiums, organization of exhibitions for cultural and/or educational purposes, publication of books, newspapers and

SERVICES periodicals; organization of exhibitions for cultural and/or educational purposes, arranging and conducting of seminars and workshops, especially for experts in field of animal nutrition.

NICE
CLASSIFICATION 42

GOODS AND SERVICES Scientific and technological services and research and design relating thereto; industrial analysis and research services; design and development of computer hardware and software, in particular computer programs, especially as database for amino acid analysis in feedstuffs for animal nutrition, computer software consultancy, technical consulting services for the animal feed industry about the use of animal feed ingredients, chemistry services; engineering services; bacteriological and/or chemical laboratory services; physics research.

PARIS PRIORITY DETAILS

PARIS PRIORITY
CODE: Germany

PARIS PRIORITY
APPLICATION NUMBER 30 2009 073 006.7/09

PARIS PRIORITY
APPLICATION DATE 12/08/2009

BASE REGISTRATION DETAILS

BASE REGISTRATION
NUMBER 30 2009 073 006.7/09

BASE REGISTRATION
DATE 03/24/2010

CORRESPONDENCE DETAILS

CLIENT IDENTIFIER 720541
NAME Evonik Degussa GmbH,
DG-IPM-PAT
ADDRESS Rodenbacher Chaussee 4
63457 Hanau
COUNTRY Germany

INTENT TO USE GROUP

CONTRACTING
PARTY CODE United States of America

DESIGNATIONS

DESIGNATIONS

UNDER THE
PROTOCOL

United States of America

INTERNATIONAL REGISTRATION DETAILS

| | |
|--|---------------------|
| INTERNATIONAL REGISTRATION NUMBER | 1041517 |
| INTERNATIONAL REGISTRATION DATE OF MARK | 04/10/2010 |
| INTERNATIONAL REGISTRATION EXPIRY DATE | 04/10/2020 |
| EFFECTIVE DATE OF MODIFICATION | 04/10/2010 |
| NOTIFICATION DATE | 07/08/2010 |
| DATE OF RECORDAL IN INTERNATIONAL REGISTER | 06/22/2010 |
| IB DOCUMENT ID | 549172301 |
| OFFICE OF ORIGIN CODE | Germany |
| OFFICE REFERENCE | 79083600 |
| TRANSACTION TYPE VALUES | Initial Designation |
| ORIGINAL LANGUAGE | ENGLISH |
| INSTRUMENT UNDER WHICH CONTRACTING PARTY IS DESIGNATED | Protocol |
| HOLDER REFERENCE | 2009W60026WO |
| DURATION OF MARK (YEARS) | 10 |

AMINORED

AMINORED

EXHIBIT 3

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

In the Matter of Application Serial Nos. 85/096,047 and 79/083,600

| | | |
|---------------------|---|----------------------------------|
| Evonik Degussa GmbH |) | |
| |) | |
| |) | |
| v. |) | Opposition No. 91199752 (parent) |
| |) | Opposition No. 91200334 |
| |) | |
| Afgritech Ltd. |) | |
| |) | |
| |) | |
| |) | |

**EVONIK DEGUSSA GMBH'S FIRST SET OF
REQUESTS FOR PRODUCTION OF DOCUMENTS**

Pursuant to the Trademark Trial and Appeal Board Manual of Procedure § 406, 37 C.F.R. §§ 2.116 and 2.120(d)(2), and FED. R. CIV. P. 26 and 34, Evonik Degussa GmbH ("Evonik") hereby requests that Afgritech Ltd. ("Afgritech") produce and permit Evonik to inspect and copy, if desired, the documents, electronically-stored information, and tangible things designated below. Evonik specifies Wednesday, December 21, 2011, at 9:00 AM EST, as the date and time for such production, inspection, and copying, and the office of Evonik's counsel at Smith, Gambrell & Russell, LLP, 1230 Peachtree Street NE, Promenade II Suite 3100, Atlanta, GA 30309, as the place therefor. As to the manner of said production, Evonik specifies that the documents and things be produced by Afgritech for each numbered item listed below and, further, that all documents be produced on CD-Rom in .pdf format, as specified in the July 21, 2011 letter between counsel for Evonik and Afgritech, and things produced as they are kept in the usual course of business, and be labeled with exhibit numbers which correspond to any written response by Afgritech to these requests such that said response will accurately show the production of documents and things or the absence thereof for each numbered item.

If, in the response to any request, there is any document or thing requested that Afgritech does not produce because of a claim of privilege, or for any other reason, note such failure to produce as an objection to the request and comply with the request to the extent that it is not subject to the objection. The documents and things designated for production are the following documents and things, as defined in the broadest sense by FED. R. CIV. P. 26 and 34, which are in the possession, custody, or control of Afgritech, or its counsel.

Each of the following requests is deemed to be continuing, and Afgritech is under a duty to seasonably supplement its responses in the manner required by law.

DEFINITIONS

1. "Afgritech," "you," and "your" means Afgritech Ltd., any predecessors, subsidiaries, parents, affiliates, or other related entities acting in concert with or under the control of Afgritech Ltd., and all persons acting on behalf of Afgritech Ltd., including, but not limited to, all past or present directors, officers, agents, servants, representatives, members, and employees.
2. "Evonik" means Evonik Degussa GmbH, any predecessors, subsidiaries, parents, affiliates, or other related entities acting in concert with or under the control of Evonik Degussa GmbH, and all persons acting on behalf of Evonik Degussa GmbH, including, but not limited to, all past or present directors, officers, agents, servants, representatives, and employees.
3. The "PTO" means the United States Patent and Trademark Office.
4. The "AMINOGREEN Mark" means that mark that is the subject of Afgritech's Application Serial Number 85/096,047 with the PTO.
5. The "AMINORED Mark" means that mark that is the subject of Evonik's Application Serial Number 79/083,600 with the PTO.

6. The "AMINOMAX Mark" means that mark that is the subject of Afgritech's Registration Number 3,905,808 with the PTO.

7. "Document" means, without limitation, every writing, record, or data compilation of every type and description stored in any medium from which information can be obtained, including those existing in all manner of memory means or devices used in connection with electronic computers or word processors, that is or has been in your possession, custody, or control, or of which you have knowledge, including, without limitation: writings, drawings, artwork, papers, contracts, calendars, journals, meeting minutes, correspondence, memoranda, tapes, communications, invoices, purchase orders, receipts, accounts, stenographic or handwritten notes, studies, publications, books, pamphlets, brochures, catalogs, labels, packaging, displays, illustrative materials, circulars, price lists, layouts, tear sheets, pictures, photographs, films, videotapes, slides, sound or voice recordings, maps, reports, surveys, minutes, graphs, statistical compilations, charts, calculations, projections, plans, data processing cards, images, electronically-stored information ("ESI"), electronic mail, tapes, floppy disks, hard drives, compact discs, DVDs, removable drives, CDs, optical storage, computer records, computer printouts, every copy of such writing or record of the original that is not in your possession, custody, or control, and every copy of every such writing or record where such copy is not an identical copy of an original or where such copy contains any commentary or notation whatsoever that does not appear on the original.

8. As used herein, "and" and "or" are to be construed disjunctively or conjunctively as necessary in order to bring within the scope of the Request all responses which may otherwise be considered to be outside its scope.

9. As used herein, “relate to,” “related to,” and “relating to” mean comprising, directly or indirectly mentioning, describing, pertaining or referring to, being connected with, reflecting upon, or resulting from, the stated subject matter.

10. As used herein, the singular form or masculine gender includes, respectively, the plural and feminine or neuter gender, and vice versa.

11. As used herein, “including” is not be used to limit any general category or description that precedes it; where it appears, it is intended to be comprehensive and means “including but not limited to.”

12. As used herein, “all,” “every,” “any,” “each,” and “one or more” include each other whenever possible to expand, and not restrict, the scope of the Request.

REQUESTS

1. Produce all non-privileged documents and things in your possession, custody, or control relating to the creation, selection, and adoption of the AMINOGREEN Mark.

2. Produce all non-privileged documents and things in your possession, custody, or control relating to the creation, selection, and adoption of the AMINOMAX Mark.

3. Produce all non-privileged documents and things in your possession, custody, or control relating to any trademark, service mark, or Internet domain name investigation or search conducted by Afgritech or on behalf of Afgritech relating to the AMINOGREEN Mark.

4. Produce all non-privileged documents and things in your possession, custody, or control relating to any trademark, service mark, or Internet domain name investigation or search conducted by Afgritech or on behalf of Afgritech relating to the AMINOMAX Mark.

5. Produce all non-privileged documents and things in your possession, custody, or control relating to Afgritech's decision to apply for a federal registration for the AMINOGREEN Mark.
6. Produce all non-privileged documents and things in your possession, custody, or control relating to Afgritech's decision to apply for a federal registration for the AMINOMAX Mark.
7. Produce all non-privileged documents and things in your possession, custody, or control relating to the prosecution history of Afgritech's Application Serial Number 85/096,047 for the AMINOGREEN Mark.
8. Produce all non-privileged documents and things in your possession, custody, or control relating to the prosecution history of Afgritech's Registration Number 3,905,808 for the AMINOMAX Mark.
9. Produce all non-privileged documents and things in your possession, custody, or control relating to Afgritech's anticipated first use in commerce of the AMINOGREEN Mark.
10. Produce all non-privileged documents and things in your possession, custody, or control relating to Afgritech's first use in commerce of the AMINOMAX Mark.
11. Produce all non-privileged documents and things in your possession, custody, or control demonstrating the type(s) of goods or services in connection with which Afgritech intends to use the AMINOGREEN Mark.
12. Produce all non-privileged documents and things in your possession, custody, or control demonstrating the type(s) of goods or services in connection with which Afgritech has used or intends to use the AMINOMAX Mark.

13. Produce all non-privileged documents and things in your possession, custody, or control relating to the geographic areas and channels of trade in which Afgritech intends to use the AMINOGREEN Mark.
14. Produce all non-privileged documents and things in your possession, custody, or control relating to the geographic areas and channels of trade in which Afgritech has used or intends to use the AMINOMAX Mark.
15. Produce all non-privileged documents and things in your possession, custody, or control relating to the advertising, marketing, and promotional materials in which Afgritech intends to use the AMINOGREEN Mark.
16. Produce all non-privileged documents and things in your possession, custody, or control relating to the advertising, marketing, and promotional materials in which Afgritech has used or intends to use the AMINOMAX Mark.
17. Produce all non-privileged documents and things in your possession, custody, or control relating to any assignment, consent, authorization, license or permission between Afgritech and any individual(s) or entity(ies) relating to the AMINOGREEN Mark, including any modifications made thereto.
18. Produce all non-privileged documents and things in your possession, custody, or control relating to any assignment, consent, authorization, license or permission between Afgritech and any individual(s) or entity(ies) relating to the AMINOMAX Mark, including any modifications made thereto.
19. Produce all non-privileged documents and things in your possession, custody, or control relating to Afgritech's ownership of the AMINOGREEN Mark.

20. Produce all non-privileged documents and things in your possession, custody, or control relating to Afgritech's ownership of the AMINOMAX Mark.
21. Produce specimens of each and every product, label, packaging, tag, brochure, advertisement, promotional item, informational literature, or invoice in your possession, custody, or control that Afgritech (or another party with Afgritech's consent) intends to use depicting or bearing any form of the AMINOGREEN Mark.
22. Produce specimens of each and every product, label, packaging, tag, brochure, advertisement, promotional item, informational literature, or invoice in your possession, custody, or control that Afgritech (or another party with Afgritech's consent) has used or intends to use depicting or bearing any form of the AMINOMAX Mark.
23. Produce all non-privileged documents and things in your possession, custody, or control relating to the labels, packaging, tags, brochures, advertisements, promotional items, informational literature, or invoices produced in response to Request Nos. 21 and 22, including but not limited to prototypes, drafts, and sketches for the same.
24. Produce specimens showing each and every variation of the AMINOGREEN Mark intended to be used by Afgritech or on behalf of Afgritech.
25. Produce specimens showing each and every variation of the AMINOMAX Mark used or intended to be used by Afgritech or on behalf of Afgritech.
26. Produce all non-privileged documents and things in your possession, custody, or control relating to each printed and electronic media publication in which Afgritech plans to advertise or promote its goods or services in commerce under the AMINOGREEN Mark.
27. Produce all non-privileged documents and things in your possession, custody, or control relating to each printed and electronic media publication in which Afgritech has

advertised or promoted or plans to advertise or promote its goods or services in commerce under the AMINOMAX Mark.

28. Produce all non-privileged documents and things in your possession, custody, or control relating to Afgritech's past, present, and future marketing plans that relate to the AMINOGREEN Mark.

29. Produce all non-privileged documents and things in your possession, custody, or control relating to Afgritech's past, present, and future marketing plans that relate to the AMINOMAX Mark.

30. Produce all non-privileged documents and things in your possession, custody, or control relating to the types of customers with whom Afgritech intends to do business in connection with the AMINOGREEN Mark, and the ultimate purchasers to whom Afgritech intends to offer goods or services under the AMINOGREEN Mark.

31. Produce all non-privileged documents and things in your possession, custody, or control relating to the types of customers with whom Afgritech has done business in connection with the AMINOMAX Mark, and the ultimate purchasers to whom Afgritech has offered goods or services under the AMINOMAX Mark.

32. Produce all non-privileged documents and things in your possession, custody, or control relating to any market, demographic, or consumer-profile study, or focus-group inquiry, relating to the AMINOGREEN Mark.

33. Produce all non-privileged documents and things in your possession, custody, or control relating to any market, demographic, or consumer-profile study, or focus-group inquiry, relating to the AMINOMAX Mark.

34. Produce all non-privileged documents and things in your possession, custody, or control relating to the dollar value of the actual and/or projected sales of Afgritech's goods and services under the AMINOGREEN Mark.

35. Produce all non-privileged documents and things in your possession, custody, or control relating to the dollar value of the actual and/or projected sales of Afgritech's goods and services under the AMINOMAX Mark.

36. Produce all non-privileged documents and things in your possession, custody, or control relating to your methods of distribution of Afgritech's goods or services under the AMINOGREEN Mark.

37. Produce all non-privileged documents and things in your possession, custody, or control relating to your methods of distribution of Afgritech's goods or services under the AMINOMAX Mark.

38. Produce all non-privileged documents and things in your possession, custody, or control relating to the amount of money that Afgritech has expended and/or budgeted to promote its goods or services under the AMINOGREEN Mark.

39. Produce all non-privileged documents and things in your possession, custody, or control relating to the amount of money that Afgritech has expended and/or budgeted to promote its goods or services under the AMINOMAX Mark.

40. Produce all non-privileged documents and things in your possession, custody, or control relating to the date and circumstances under which Afgritech first became aware of the AMINORED Mark.

41. Produce all non-privileged documents and things in your possession, custody, or control relating to any action taken by Afgritech in response to its awareness of the AMINORED Mark.

42. Produce all non-privileged documents and things in your possession, custody, or control relating to Evonik.

43. Produce all non-privileged documents and things in your possession, custody, or control relating to any instance in which any person has been confused, mistaken, or deceived as to the source of any goods or services provided by Afgritech under the AMINOGREEN Mark.

44. Produce all non-privileged documents and things in your possession, custody, or control upon which Afgritech relied in preparing its Notice of Opposition in Opposition Number 91200334.

45. Produce all non-privileged documents in your possession, custody, or control that relate to any legal action filed by or against Afgritech relating to the AMINOMAX Mark, other than this Opposition.

46. For each expert whom Afgritech intends to call to provide testimony in this Opposition, produce: a) any written report provided by the expert relating to the subject matter of this Opposition; b) a complete written statement of all opinions to be expressed by the expert in this Opposition; c) all documents reflecting the data or other information considered by the expert in forming his/her opinions; d) all exhibits to be used by the expert as a summary of or support for his/her opinions; e) those documents stating the qualifications of the expert, such as would be reflected in a resume, curriculum vitae, biography, summary, or otherwise; f) a written list of all publications authored by the expert within the last ten years; g) documents reflecting the compensation to be paid for the expert's preparation time and time taken to provide

testimony; and h) a written list of any other cases in which the expert has testified as an expert at trial, in an administrative proceeding, or by deposition, within the past four years.

47. Produce all non-privileged documents and things in your possession, custody, or control identified in Afgritech's Responses to Evonik's First Set of Interrogatories, served concurrently herewith.

48. Produce all non-privileged documents and things in your possession, custody, or control which were reviewed, relied upon, referred to, and/or used by Afgritech in preparing its Responses to Evonik's First Set of Interrogatories or which contain information relating to such Responses.

49. Produce all non-privileged documents and things in your possession, custody, or control sufficient to describe, completely and in detail, Afgritech's organizational structure, including the identities, duties, and responsibilities of Afgritech's major shareholders, officers, directors, and managers.

50. Produce all non-privileged documents and things in your possession, custody, or control sufficient to identify any employees, officers, task forces, committees, or working groups – and members thereof – that are now addressing or have in the past addressed any issues relating to the AMINOGREEN Mark.

51. Produce all non-privileged documents and things in your possession, custody, or control sufficient to identify any employees, officers, task forces, committees, or working groups – and members thereof – that are now addressing or have in the past addressed any issues relating to the AMINOMAX Mark.

52. Produce all non-privileged documents and things in your possession, custody, or control sufficient to identify any employees, officers, task forces, committees, or working groups

– and members thereof – that are now addressing or have in the past addressed any issues relating to the AMINORED Mark.

53. Produce all non-privileged documents and things in your possession, custody, or control sufficient to establish Afgritech's document retention policies, if any.

54. Produce all corporate minutes, resolutions, and any other corporate records of Afgritech relating to the AMINOGREEN Mark.

55. Produce all corporate minutes, resolutions, and any other corporate records of Afgritech relating to the AMINOMAX Mark.

56. Produce all corporate minutes, resolutions, and any other corporate records of Afgritech relating to the AMINORED Mark.

Respectfully submitted this 16th day of November, 2011.

SMITH, GAMBRELL & RUSSELL, LLP



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Attorneys for Evonik Degussa GmbH

032301.691OPP SGR\9244602.1

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

In the Matter of Application Serial Nos. 85/096,047 and 79/083,600

| | | |
|---------------------|---|----------------------------------|
| Evonik Degussa GmbH |) | |
| |) | |
| |) | |
| v. |) | Opposition No. 91199752 (parent) |
| |) | Opposition No. 91200334 |
| |) | |
| Afgritech Ltd. |) | |
| _____ |) | |

CERTIFICATE OF SERVICE

I, Scott D. Woldow, counsel for Evonik Degussa GmbH, do hereby certify that Evonik Degussa GmbH's First Set of Requests for Production of Documents was on this day served upon Afgritech Ltd. pursuant to 37 C.F.R. § 2.119(b)(4) by first-class mail, addressed as follows:

Thomas H. Van Hoozer
Hovey Williams LLP
10801 Mastin Blvd. Suite 1000
Overland Park, KS 66210

Pursuant to 37 C.F.R. § 2.119(b)(6) and to the July 21, 2011 letter between counsel for Evonik and Afgritech, a courtesy copy was also sent by email.

This 16th day of November, 2011.



Scott D. Woldow

EXHIBIT 4

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

| | | |
|----------------------|---|----------------------------------|
| Evonik Degussa GmbH, |) | |
| |) | |
| Opposer, |) | |
| |) | |
| v. |) | Opposition No. 91199752 (parent) |
| |) | 91200034 |
| |) | |
| Afgritech Ltd., |) | |
| |) | |
| Applicant. |) | |

**AFGRITECH’S OBJECTIONS AND RESPONSES TO OPPOSER’S FIRST SET OF
REQUESTS FOR PRODUCTION OF DOCUMENTS**

Applicant Afgritech Ltd. (“Afgritech”), pursuant to Federal Rule of Civil Procedure 34, as incorporated into the Rules of Practice in Trademark Cases under the provisions of 37 C.F.R. § 2.116 and Rule 2.120 of the Trademark Rules of Practice, objects and responds to Opposer Evonik Degussa GmbH’s (“Evonik”) First Set of Requests for the Production of Documents. Applicant reserves the right to supplement these responses upon the discovery of additional documents through discovery or otherwise.

GENERAL OBJECTIONS

1. Applicant generally objects to each and every request to the extent it calls for the disclosure of attorney-client privileged communications and/or attorney work product. Applicant will not undertake to locate and log communications between Applicant and counsel regarding the subject matter of this opposition dated after the institution of the opposition. Applicant objects to each discovery request and it has not responded to the extent that the requests seek “each,” “any,” “all,” “related,” or “relating” information as overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence, if by these terms, Opposer purports to require Applicant to investigate for and produce all information and materials touching on the subject of the request. Applicant is interpreting such requests as calling for the identification or production of information or materials, to the extent not objected to, which most fully or directly address the subject of the requests, or is representative of the subject information or materials of Applicant. If, by these terms in the requests, Opposer expects Applicant to also produce information or material which is repetitive, cumulative, or only incidentally related to the request subject, then Applicant objects to this purported scope on the basis that such requests are vague, overbroad, unduly burdensome, oppressive, and not reasonably calculated to lead to the discovery of admissible evidence.

2. Applicant objects to the extent that there are no time limitations set forth in Opposer's requests rendering some of them overbroad, unduly burdensome, not relevant, and not reasonably calculated to lead to the discovery of admissible evidence. Applicant will not undertake to log communications between Applicant and counsel for Applicant dated after the institution of this opposition regarding this opposition nor the actions of counsel or actions taken at counsel's direction in furtherance of this opposition.

3. Applicant objects to the production of documents which contain business trade secrets or other confidential information to the extent not already provided for by the Protective Order entered by the Board pursuant to 37 C.F.R. § 2.116(g) or any other protective order entered by the parties. Any documents subject to production that contain business trade secrets or other confidential information shall be produced subject to the Protective Order entered by the Board pursuant to 37 C.F.R. § 2.116(g) or any other protective order entered by the parties.

4. Applicant objects to each document request to the extent that it calls for information not reasonably available to, or not within the possession, custody, or control of Applicant. The responses below are based on information reasonably available to Applicant and documents within Applicant's possession, custody, or control.

Each of the foregoing objections shall be considered continuing and are hereby incorporated by reference into each specific response.

REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS

REQUEST FOR PRODUCTION NO. 1:

Produce all non-privileged documents and things in your possession, custody, or control relating to the creation, selection, and adoption of the AMINOGREEN Mark.

RESPONSE: Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks "all non-privileged documents and things." Subject to that and the General Objections, Afgritech states it does not believe there are documents responsive to the Request other than the application, which is the subject of this opposition and available online to the Opposer at the USPTO website. If any other documents are located, Afgritech will produce representative, responsive documents.

REQUEST FOR PRODUCTION NO. 2:

Produce all non-privileged documents and things in your possession, custody, or control relating to the creation, selection, and adoption of the AMINOMAX Mark.

RESPONSE: Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks “all non-privileged documents and things.” Subject to that and the General Objections, Afgritech does not believe it has any responsive documents relating to selection or creation of the AMINOMAX mark for use in the United States other than the application, which is available to Opposer through the USPTO website. If additional responsive documents are located, Afgritech will produce representative, responsive documents. With respect to adoption of the AMINOMAX mark in the United States, Afgritech states it will produce representative, responsive documents.

REQUEST FOR PRODUCTION NO. 3:

Produce all non-privileged documents and things in your possession, custody, or control relating to any trademark, service mark, or Internet domain name investigation or search conducted by Afgritech or on behalf of Afgritech relating to the AMINOGREEN Mark.

RESPONSE: Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks “all non-privileged documents and things.” Subject to that and the General Objections, Afgritech states that there are no responsive documents.

REQUEST FOR PRODUCTION NO. 4:

Produce all non-privileged documents and things in your possession, custody, or control relating to any trademark, service mark, or Internet domain name investigation or search conducted by Afgritech or on behalf of Afgritech relating to the AMINOMAX Mark.

RESPONSE: Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks “all non-privileged documents and things.” Subject to that and the General Objections, Afgritech states there are no responsive documents.

REQUEST FOR PRODUCTION NO. 5:

Produce all non-privileged documents and things in your possession, custody, or control relating to Afgritech's decision to apply for a federal registration for the AMINOGREEN Mark.

RESPONSE: Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the

United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks “all non-privileged documents and things.” Subject to that and the General Objections, Afgritech states it does not believe there are documents responsive to the Request other than the application, which is the subject of this opposition and available online to the Opposer at the USPTO website. If any other documents are located, Afgritech will produce representative, responsive documents.

REQUEST FOR PRODUCTION NO. 6:

Produce all non-privileged documents and things in your possession, custody, or control relating to Afgritech's decision to apply for a federal registration for the AMINOMAX Mark.

RESPONSE: Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks “all non-privileged documents and things.” Subject to that and the General Objections, Afgritech states it does not believe there are documents responsive to the Request other than the application, which is the subject of this opposition and available online to the Opposer at the USPTO website. If any other documents are located, Afgritech will it will produce representative, responsive documents.

REQUEST FOR PRODUCTION NO. 7:

Produce all non-privileged documents and things in your possession, custody, or control relating to the prosecution history of Afgritech's Application Serial Number 85/096,047 for the AMINOGREEN Mark.

RESPONSE: Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks “all non-privileged documents and things.” Subject to that and the General Objections, Afgritech states it will produce a copy of the USPTO prosecution file history for Application Serial No. 85/096,047.

REQUEST FOR PRODUCTION NO. 8:

Produce all non-privileged documents and things in your possession, custody, or control relating to the prosecution history of Afgritech's Registration Number 3,905,808 for the AMINOMAX Mark.

RESPONSE: Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the

extent it seeks “all non-privileged documents and things” as is the request with respect to the scope of “relating to”. Subject to that and the General Objections, Afgritech states it will produce a copy of the USPTO prosecution file history for Registration No. 3,905,808.

REQUEST FOR PRODUCTION NO. 9:

Produce all non-privileged documents and things in your possession, custody, or control relating to Afgritech's anticipated first use in commerce of the AMINOGREEN Mark.

RESPONSE: Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks “all non-privileged documents and things.” Subject to that and the General Objections, Afgritech states it does not have any documents responsive to this request but should such documents be located, Afgritech will produce representative, responsive documents to the extent any exist.

REQUEST FOR PRODUCTION NO. 10:

Produce all non-privileged documents and things in your possession, custody, or control relating to Afgritech's first use in commerce of the AMINOMAX Mark.

RESPONSE: Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks “all non-privileged documents and things.” Subject to that and the General Objections, Afgritech states it will produce representative, responsive documents.

REQUEST FOR PRODUCTION NO. 11:

Produce all non-privileged documents and things in your possession, custody, or control demonstrating the type(s) of goods or services in connection with which Afgritech intends to use the AMINOGREEN Mark.

RESPONSE: Afgritech objects on the basis that the request seeks information not reasonably calculated to lead to the discovery of admissible evidence and is outside the scope of the opposition. Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks “all non-privileged documents and things.” Subject to that and the General Objections, Afgritech states it does not have any responsive documents specific to the AMINOGREEN mark, but that the type of goods it intends to sell under the AMINOGREEN mark are intended to include good similar to those produced in response to Request No. 12, but if

any additional responsive documents are located, Afgritech will produce representative, responsive documents.

REQUEST FOR PRODUCTION NO. 12:

Produce all non-privileged documents and things in your possession, custody, or control demonstrating the type(s) of goods or services in connection with which Afgritech has used or intends to use the AMINOMAX Mark.

RESPONSE: Afgritech objects on the basis that the request seeks information not reasonably calculated to lead to the discovery of admissible evidence and is outside the scope of the opposition. Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks “all non-privileged documents and things.” Subject to that and the General Objections, Afgritech states it will produce representative, responsive documents.

REQUEST FOR PRODUCTION NO. 13:

Produce all non-privileged documents and things in your possession, custody, or control relating to the geographic areas and channels of trade in which Afgritech intends to use the AMINOGREEN Mark.

RESPONSE: Afgritech objects on the basis that the request seeks information not reasonably calculated to lead to the discovery of admissible evidence and is outside the scope of the opposition. Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks “all non-privileged documents and things.” Subject to that and the General Objections, Afgritech states it does not believe there are any documents responsive to this request but if such documents are found, it will produce representative, responsive documents to the extent any exist.

REQUEST FOR PRODUCTION NO. 14:

Produce all non-privileged documents and things in your possession, custody, or control relating to the geographic areas and channels of trade in which Afgritech has used or intends to use the AMINOMAX Mark.

RESPONSE: RESPONSE: Afgritech objects on the basis that the request seeks information not reasonably calculated to lead to the discovery of admissible evidence and is outside the scope of the opposition. Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the

United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks “all non-privileged documents and things.” Subject to that and the General Objections, Afgritech states it will produce representative, responsive documents to the extent any exist.

REQUEST FOR PRODUCTION NO. 15:

Produce all non-privileged documents and things in your possession, custody, or control relating to the advertising, marketing, and promotional materials in which Afgritech intends to use the AMINOGREEN Mark.

RESPONSE: Afgritech objects on the basis that the request seeks information not reasonably calculated to lead to the discovery of admissible evidence and is outside the scope of the opposition. Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks “all non-privileged documents and things.” Subject to that and the General Objections, Afgritech states it does not believe there are any documents responsive to this request but if such documents are found, it will produce representative, responsive documents to the extent any exist.

REQUEST FOR PRODUCTION NO. 16:

Produce all non-privileged documents and things in your possession, custody, or control relating to the advertising, marketing, and promotional materials in which Afgritech has used or intends to use the AMINOMAX Mark.

RESPONSE: Afgritech objects on the basis that the request seeks information not reasonably calculated to lead to the discovery of admissible evidence and is outside the scope of the opposition. Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks “all non-privileged documents and things.” Subject to that and the General Objections, Afgritech states it will produce representative, responsive documents.

REQUEST FOR PRODUCTION NO. 17:

Produce all non-privileged documents and things in your possession, custody, or control relating to any assignment, consent, authorization, license or permission between Afgritech and any individual(s) or entity(ies) relating to the AMINOGREEN Mark, including any modifications made thereto.

RESPONSE: Afgritech objects on the basis that the request seeks information not reasonably calculated to lead to the discovery of admissible evidence and is outside the scope of the opposition. Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks “all non-privileged documents and things.” Subject to that and the General Objections, Afgritech states there are none.

REQUEST FOR PRODUCTION NO. 18:

Produce all non-privileged documents and things in your possession, custody, or control relating to any assignment, consent, authorization, license or permission between Afgritech and any individual(s) or entity(ies) relating to the AMINOMAX Mark, including any modifications made thereto.

RESPONSE: Afgritech objects on the basis that the request seeks information not reasonably calculated to lead to the discovery of admissible evidence and is outside the scope of the opposition. Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks “all non-privileged documents and things.” Subject to that and the General Objections, Afgritech states that there are no documents responsive to this request.

REQUEST FOR PRODUCTION NO. 19:

Produce all non-privileged documents and things in your possession, custody, or control relating to Afgritech's ownership of the AMINOGREEN Mark.

RESPONSE: Afgritech objects on the basis that the request seeks information not reasonably calculated to lead to the discovery of admissible evidence and is outside the scope of the opposition. Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks “all non-privileged documents and things.” Subject to that and the General Objections, Afgritech states that other than the documents produced in response to Request No. 7, there are no responsive documents.

REQUEST FOR PRODUCTION NO. 20:

Produce all non-privileged documents and things in your possession, custody, or control relating to Afgritech's ownership of the AMINOMAX Mark.

RESPONSE: Afgritech objects on the basis that the request seeks information not reasonably calculated to lead to the discovery of admissible evidence and is outside the scope of the opposition. Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks “all non-privileged documents and things.” Subject to that and the General Objections, Afgritech references the documents produced in response to Request No. 8, it does not believe there are any documents responsive to this request but should such documents be located, Afgritech states it will produce representative, responsive documents.

REQUEST FOR PRODUCTION NO. 21:

Produce specimens of each and every product, label, packaging, tag, brochure, advertisement, promotional item, informational literature, or invoice in your possession, custody, or control that Afgritech (or another party with Afgritech's consent) intends to use depicting or bearing any form of the AMINOGREEN Mark.

RESPONSE: Afgritech objects on the basis that the request seeks information not reasonably calculated to lead to the discovery of admissible evidence and is outside the scope of the opposition. Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks “each and every product, label, packaging, tag, brochure, advertisement, promotional item, informational literature, or invoice.” Subject to that and the General Objections, Afgritech states there are none.

REQUEST FOR PRODUCTION NO. 22:

Produce specimens of each and every product, label, packaging, tag, brochure, advertisement, promotional item, informational literature, or invoice in your possession, custody, or control that Afgritech (or another party with Afgritech's consent) has used or intends to use depicting or bearing any form of the AMINOMAX Mark.

RESPONSE: Afgritech objects on the basis that the request seeks information not reasonably calculated to lead to the discovery of admissible evidence and is outside the scope of the opposition. Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks “each and every product, label, packaging, tag, brochure, advertisement, promotional item, informational literature, or invoice.” Subject to that and the General Objections, Afgritech states it will produce representative, responsive documents.

REQUEST FOR PRODUCTION NO. 23:

Produce all non-privileged documents and things in your possession, custody, or control relating to the labels, packaging, tags, brochures, advertisements, promotional items, informational literature, or invoices produced in response to Request Nos. 21 and 22, including but not limited to prototypes, drafts, and sketches for the same.

RESPONSE: Afgritech objects on the basis that the request seeks information not reasonably calculated to lead to the discovery of admissible evidence and is outside the scope of the opposition. Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks “all non-privileged documents and things.” Subject to that and the General Objections, Afgritech states it will produce representative, responsive documents regarding AMINOMAX. There are no responsive documents regarding the AMINOGREEN Mark.

REQUEST FOR PRODUCTION NO. 24:

Produce specimens showing each and every variation of the AMINOGREEN Mark intended to be used by Afgritech or on behalf of Afgritech.

RESPONSE: Afgritech objects on the basis that the request seeks information not reasonably calculated to lead to the discovery of admissible evidence and is outside the scope of the opposition. Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks “all non-privileged documents and things.” Subject to that and the General Objections, Afgritech states there are no responsive documents.

REQUEST FOR PRODUCTION NO. 25:

Produce specimens showing each and every variation of the AMINOMAX Mark used or intended to be used by Afgritech or on behalf of Afgritech.

RESPONSE: Afgritech objects on the basis that the request seeks information not reasonably calculated to lead to the discovery of admissible evidence and is outside the scope of the opposition. Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks “all non-privileged documents and things.” Subject to that and the General Objections, Afgritech states it will produce representative, responsive documents.

REQUEST FOR PRODUCTION NO. 26:

Produce all non-privileged documents and things in your possession, custody, or control relating to each printed and electronic media publication in which Afgritech plans to advertise or promote its goods or services in commerce under the AMINOGREEN Mark.

RESPONSE: Afgritech objects on the basis that the request seeks information not reasonably calculated to lead to the discovery of admissible evidence and is outside the scope of the opposition. Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks “all non-privileged documents and things.” Subject to that and the General Objections, Afgritech states it does not believe it has any such documents but should they be developed, Afgritech will produce representative, responsive documents.

REQUEST FOR PRODUCTION NO. 27:

Produce all non-privileged documents and things in your possession, custody, or control relating to each printed and electronic media publication in which Afgritech has advertised or promoted or plans to advertise or promote its goods or services in commerce under the AMINOMAX Mark.

RESPONSE: Afgritech objects on the basis that the request seeks information not reasonably calculated to lead to the discovery of admissible evidence and is outside the scope of the opposition. Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks “all non-privileged documents and things.” Subject to that and the General Objections, Afgritech states it will produce representative, responsive documents.

REQUEST FOR PRODUCTION NO. 28:

Produce all non-privileged documents and things in your possession, custody, or control relating to Afgritech's past, present, and future marketing plans that relate to the AMINOGREEN Mark.

RESPONSE: Afgritech objects on the basis that the request seeks information not reasonably calculated to lead to the discovery of admissible evidence and is outside the scope of the opposition. Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks “all non-privileged documents and things.” Subject to that and the General Objections, Afgritech states there are no responsive documents.

REQUEST FOR PRODUCTION NO. 29:

Produce all non-privileged documents and things in your possession, custody, or control relating to Afgritech's past, present, and future marketing plans that relate to the AMINOMAX Mark.

RESPONSE: Afgritech objects on the basis that the request seeks information not reasonably calculated to lead to the discovery of admissible evidence and is outside the scope of the opposition. Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks "all non-privileged documents and things." Subject to that and the General Objections, Afgritech states it will produce representative, responsive documents.

REQUEST FOR PRODUCTION NO. 30:

Produce all non-privileged documents and things in your possession, custody, or control relating to the types of customers with whom Afgritech intends to do business in connection with the AMINOGREEN Mark, and the ultimate purchasers to whom Afgritech intends to offer goods or services under the AMINOGREEN Mark.

RESPONSE: Afgritech objects on the basis that the request seeks information not reasonably calculated to lead to the discovery of admissible evidence and is outside the scope of the opposition. Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks "all non-privileged documents and things." Subject to that and the General Objections, Afgritech states it does not believe there are any documents specific tot the AMINOGREEN mark but that documents produced responsive to the Request No. 31 would reflect Afgritech's current intentions regarding types of consumers for goods under the AMINOGREEN mark.

REQUEST FOR PRODUCTION NO. 31:

Produce all non-privileged documents and things in your possession, custody, or control relating to the types of customers with whom Afgritech has done business in connection with the AMINOMAX Mark, and the ultimate purchasers to whom Afgritech has offered goods or services under the AMINOMAX Mark.

RESPONSE: Afgritech objects on the basis that the request seeks information not reasonably calculated to lead to the discovery of admissible evidence and is outside the scope of the opposition. Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the

United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks “all non-privileged documents and things.” Subject to that and the General Objections, Afgritech states it will produce representative, responsive documents.

REQUEST FOR PRODUCTION NO. 32:

Produce all non-privileged documents and things in your possession, custody, or control relating to any market, demographic, or consumer-profile study, or focus-group inquiry, relating to the AMINOGREEN Mark.

RESPONSE: Afgritech objects on the basis that the request seeks information not reasonably calculated to lead to the discovery of admissible evidence and is outside the scope of the opposition. Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks “all non-privileged documents and things.” Subject to that and the General Objections, Afgritech states there are no responsive documents.

REQUEST FOR PRODUCTION NO. 33:

Produce all non-privileged documents and things in your possession, custody, or control relating to any market, demographic, or consumer-profile study, or focus-group inquiry, relating to the AMINOMAX Mark.

RESPONSE: Afgritech objects on the basis that the request seeks information not reasonably calculated to lead to the discovery of admissible evidence and is outside the scope of the opposition. Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks “all non-privileged documents and things.” Subject to that and the General Objections, Afgritech states there are no responsive documents.

REQUEST FOR PRODUCTION NO. 34:

Produce all non-privileged documents and things in your possession, custody, or control relating to the dollar value of the actual and/or projected sales of Afgritech's goods and services under the AMINOGREEN Mark.

RESPONSE: Afgritech objects on the basis that the request seeks information not reasonably calculated to lead to the discovery of admissible evidence and is outside the scope of the opposition. Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the

extent it seeks “all non-privileged documents and things.” Subject to that and the General Objections, Afgritech states there are no responsive documents.

REQUEST FOR PRODUCTION NO. 35:

Produce all non-privileged documents and things in your possession, custody, or control relating to the dollar value of the actual and/or projected sales of Afgritech's goods and services under the AMINOMAX Mark.

RESPONSE: Afgritech objects on the basis that the request seeks information not reasonably calculated to lead to the discovery of admissible evidence and is outside the scope of the opposition. Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks “all non-privileged documents and things.” Subject to that and the General Objections, Afgritech states it will produce representative, responsive documents.

REQUEST FOR PRODUCTION NO. 36:

Produce all non-privileged documents and things in your possession, custody, or control relating to your methods of distribution of Afgritech's goods or services under the AMINOGREEN Mark.

RESPONSE: Afgritech objects on the basis that the request seeks information not reasonably calculated to lead to the discovery of admissible evidence and is outside the scope of the opposition. Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks “all non-privileged documents and things.” Subject to that and the General Objections, Afgritech states there are no responsive documents.

REQUEST FOR PRODUCTION NO. 37:

Produce all non-privileged documents and things in your possession, custody, or control relating to your methods of distribution of Afgritech's goods or services under the AMINOMAX Mark.

RESPONSE: Afgritech objects on the basis that the request seeks information not reasonably calculated to lead to the discovery of admissible evidence and is outside the scope of the opposition. Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks “all non-privileged documents and things.” Subject to that and the General

Objections, Afgritech states it does not believe there any documents responsive to this request but should such documents be developed, it will produce representative, responsive documents.

REQUEST FOR PRODUCTION NO. 38:

Produce all non-privileged documents and things in your possession, custody, or control relating to the amount of money that Afgritech has expended and/or budgeted to promote its goods or services under the AMINOGREEN Mark.

RESPONSE: Afgritech objects on the basis that the request seeks information not reasonably calculated to lead to the discovery of admissible evidence and is outside the scope of the opposition. Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks “all non-privileged documents and things.” Subject to that and the General Objections, Afgritech states there are no responsive documents.

REQUEST FOR PRODUCTION NO. 39:

Produce all non-privileged documents and things in your possession, custody, or control relating to the amount of money that Afgritech has expended and/or budgeted to promote its goods or services under the AMINOMAX Mark.

RESPONSE: Afgritech objects on the basis that the request seeks information not reasonably calculated to lead to the discovery of admissible evidence and is outside the scope of the opposition. Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks “all non-privileged documents and things.” Subject to that and the General Objections, Afgritech states it will produce representative, responsive documents.

REQUEST FOR PRODUCTION NO. 40:

Produce all non-privileged documents and things in your possession, custody, or control relating to the date and circumstances under which Afgritech first became aware of the AMINORED Mark.

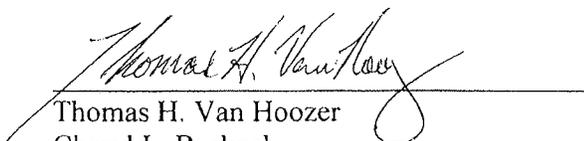
RESPONSE: Afgritech objects on the basis that the request seeks information not reasonably calculated to lead to the discovery of admissible evidence and is outside the scope of the opposition. Afgritech objects on the basis that the request is unduly burdensome, overly broad, and seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence to the extent that the request seeks information that is not pertinent to the United States. Afgritech also object on the basis that the request is unduly burdensome to the extent it seeks “all non-privileged documents and things.” Subject to that and the General

Objections, Afgritech states that the only documents responsive to this request are set forth in the Notice of Opposition and TTAB scheduling order already in the possession, custody or control of Opposer and thus Afgritech will not produce such documents as to do so would be duplicative and wasteful.

Respectfully Submitted,

Dated: December 21, 2011

HOVEY WILLIAMS LLP



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ATTORNEYS FOR APPLICANT AFGRITECH LTD.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 21st day of December, 2011, the foregoing **APPLICANT'S OBJECTIONS AND RESPONSES TO OPPOSER'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS** has been served on counsel for Applicant via First Class U.S. Mail to the following address:

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

ATTORNEY FOR OPPOSER EVONIK DEGUSSA GMBH

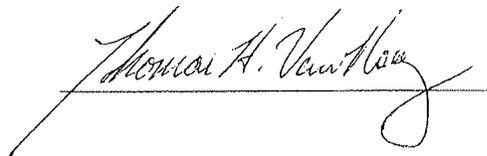
A handwritten signature in cursive script, reading "Thomas A. VanHorn", is written over a horizontal line. The signature is written in black ink and is positioned to the right of the text "ATTORNEY FOR OPPOSER EVONIK DEGUSSA GMBH".

EXHIBIT 5

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

In the Matter of Application Serial Nos. 85/096,047 and 79/083,600

| | | |
|---------------------|---|----------------------------------|
| Evonik Degussa GmbH |) | |
| |) | |
| v. |) | Opposition No. 91199752 (parent) |
| |) | Opposition No. 91200334 |
| |) | |
| Afgritech Ltd. |) | |
| |) | |
| |) | |
| |) | |

EVONIK DEGUSSA GMBH'S FIRST SET OF REQUESTS FOR ADMISSION

Pursuant to the Trademark Trial and Appeal Board Manual of Procedure § 407, 37 C.F.R. §§ 2.116 and 2.120, and FED. R. CIV. P. 26 and 36, Evonik Degussa GmbH ("Evonik") hereby requests that Afgritech Ltd. ("Afgritech") admit or deny the truth of the statements below:

DEFINITIONS

1. "Afgritech," "you," and "your" means Afgritech Ltd., any predecessors, subsidiaries, parents, affiliates, or other related entities acting in concert with or under the control of Afgritech Ltd., and all persons acting on behalf of Afgritech Ltd., including, but not limited to, all past or present directors, officers, agents, servants, representatives, members, and employees.
2. "Evonik" means Evonik Degussa GmbH, any predecessors, subsidiaries, parents, affiliates, or other related entities acting in concert with or under the control of Evonik Degussa GmbH, and all persons acting on behalf of Evonik Degussa GmbH, including, but not limited to, all past or present directors, officers, agents, servants, representatives, and employees.
3. The "PTO" means the United States Patent and Trademark Office.

4. The "AMINOGREEN Mark" means that mark that is the subject of Afgritech's Application Serial Number 85/096,047 with the PTO.

5. "Document" means, without limitation, every writing, record, or data compilation of every type and description stored in any medium from which information can be obtained, including those existing in all manner of memory means or devices used in connection with electronic computers or word processors, that is or has been in your possession, custody, or control, or of which you have knowledge, including, without limitation: writings, drawings, artwork, papers, contracts, calendars, journals, meeting minutes, correspondence, memoranda, tapes, communications, invoices, purchase orders, receipts, accounts, stenographic or handwritten notes, studies, publications, books, pamphlets, brochures, catalogs, labels, packaging, displays, illustrative materials, circulars, price lists, layouts, tear sheets, pictures, photographs, films, videotapes, slides, sound or voice recordings, maps, reports, surveys, minutes, graphs, statistical compilations, charts, calculations, projections, plans, data processing cards, images, electronically-stored information ("ESI"), electronic mail, tapes, floppy disks, hard drives, compact discs, DVDs, removable drives, CDs, optical storage, computer records, computer printouts, every copy of such writing or record of the original that is not in your possession, custody, or control, and every copy of every such writing or record where such copy is not an identical copy of an original or where such copy contains any commentary or notation whatsoever that does not appear on the original.

6. The "Interrogatory Responses" means "AFGRITECH'S OBJECTIONS AND RESPONSES TO OPPOSER'S FIRST SET OF INTERROGATORIES TO APPLICANT," which were verified by Ron Wood and served on Evonik by Thomas H. Van Hoozer on December 21, 2011.

7. The “Document Responses” means “AFGRITECH’S OBJECTIONS AND RESPONSES TO OPPOSER’S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS,” which were served on Evonik by Thomas H. Van Hoozer on December 21, 2011.

8. As used herein, “and” and “or” are to be construed disjunctively or conjunctively as necessary in order to bring within the scope of the request all responses which may otherwise be considered to be outside its scope.

9. As used herein, “relate to,” “related to,” and “relating to” mean comprising, directly or indirectly mentioning, describing, pertaining or referring to, being connected with, reflecting upon, or resulting from the stated subject matter.

10. As used herein, the singular form or masculine gender includes, respectively, the plural and feminine or neuter gender, and vice versa.

11. As used herein, “including” is not to be used to limit any general category or description that precedes it; where it appears, it is intended to be comprehensive and means “including but not limited to.”

12. As used herein, “all,” “every,” “any,” “each,” and “one or more” include each other whenever possible to expand, and not restrict, the scope of the request.

REQUESTS

1. Admit that Afgritech has no documents in its possession, custody, or control relating to the creation, selection, and adoption of the AMINOGREEN Mark in the United States other than the application therefor, which is the subject of this opposition and is available online at the PTO website – as Afgritech represented in its Document Response No. 1.

2. Admit that Afgritech has no documents in its possession, custody, or control relating to any trademark, service mark, or Internet domain name investigation or search conducted by Afgritech or on behalf of Afgritech relating to the AMINOGREEN Mark in the United States – as Afgritech represented in its Document Response No. 3.

3. Admit that Afgritech has no documents in its possession, custody, or control relating to Afgritech's decision to apply for a federal registration for the AMINOGREEN Mark in the United States other than the application therefor, which is the subject of this opposition and is available online at the PTO website – as Afgritech represented in its Document Response No. 5.

4. Admit that Afgritech has no documents in its possession, custody, or control relating to Afgritech's anticipated first use in commerce of the AMINOGREEN Mark in the United States – as Afgritech represented in its Document Response No. 9.

5. Admit that Afgritech has no documents in its possession, custody, or control demonstrating the type(s) of goods or services in connection with which Afgritech intends to use the AMINOGREEN Mark in the United States – as Afgritech represented in its Document Response No. 11.

6. Admit that Afgritech has no documents in its possession, custody, or control relating to the geographic areas and channels of trade in which Afgritech intends to use the AMINOGREEN Mark in the United States – as Afgritech represented in its Document Response No. 13.

7. Admit that Afgritech has no documents in its possession, custody, or control relating to the advertising, marketing, and promotional materials in which Afgritech intends to

use the AMINOGREEN Mark in the United States – as Afgritech represented in its Document Response No. 15.

8. Admit that Afgritech has no documents in its possession, custody, or control relating to any assignment, consent, authorization, license or permission between Afgritech and any individual(s) or entity(ies) relating to the AMINOGREEN Mark in the United States – as Afgritech represented in its Document Response No. 17.

9. Admit that Afgritech has no documents in its possession, custody, or control relating to Afgritech's ownership of the AMINOGREEN Mark in the United States, other than the PTO prosecution file history for the AMINOGREEN MARK – as Afgritech represented in its Document Response No. 19.

10. Admit that Afgritech has no specimens of any product, label, packaging, tag, brochure, advertisement, promotional item, informational literature, or invoice in its possession, custody, or control that Afgritech (or another party with Afgritech's consent) intends to use in the United States depicting or bearing any form of the AMINOGREEN Mark – as Afgritech represented in its Document Response No. 21.

11. Admit that Afgritech has no documents in its possession, custody, or control relating to any product, label, packaging, tag, brochure, advertisement, promotional item, informational literature, or invoice that Afgritech (or another party with Afgritech's consent) intends to use in the United States depicting or bearing any form of the AMINOGREEN Mark – as Afgritech represented in its Document Response No. 23.

12. Admit that Afgritech has no specimens in its possession, custody, or control showing each and every variation of the AMINOGREEN Mark intended to be used in the United

States by Afgritech or on behalf of Afgritech – as Afgritech represented in its Document Response No. 24.

13. Admit that Afgritech has no documents in its possession, custody, or control relating to any printed or electronic media publication in which Afgritech plans to advertise or promote its goods or services in commerce under the AMINOGREEN Mark in the United States – as Afgritech represented in its Document Response No. 26.

14. Admit that Afgritech has no documents in its possession, custody, or control relating to Afgritech's past, present, and future marketing plans that relate to the AMINOGREEN Mark in the United States – as Afgritech represented in its Document Response No. 28.

15. Admit that Afgritech has no documents in its possession, custody, or control relating to the types of customers with whom Afgritech intends to do business in connection with the AMINOGREEN Mark in the United States, and the ultimate purchasers to whom Afgritech intends to offer goods or services under the AMINOGREEN Mark in the United States – as Afgritech represented in its Document Response No. 30.

16. Admit that Afgritech has no documents in its possession, custody, or control relating to any market, demographic, or consumer-profile study, or focus-group inquiry, relating to the AMINOGREEN Mark in the United States – as Afgritech represented in its Document Response No. 32.

17. Admit that Afgritech has no documents in its possession, custody, or control relating to the dollar value of the actual and/or projected sales of Afgritech's goods and services under the AMINOGREEN Mark in the United States – as Afgritech represented in its Document Response No. 34.

18. Admit that Afgritech has no documents in its possession, custody, or control relating to its methods of distribution of Afgritech's goods or services under the AMINOGREEN Mark in the United States – as Afgritech represented in its Document Response No. 36.

19. Admit that Afgritech has no documents in its possession, custody, or control relating to the amount of money that Afgritech has expended and/or budgeted to promote its goods or services under the AMINOGREEN Mark in the United States – as Afgritech represented in its Document Response No. 38.

20. Admit that Afgritech has no corporate minutes, resolutions, or any other corporate records relating to the AMINOGREEN Mark.

21. Admit that Afgritech has no supervisory employees responsible for the promotion, sale, or distribution of Afgritech's goods and services under the AMINOGREEN Mark in the United States – as Afgritech represented in its Interrogatory Response No. 1.

22. Admit that no person at Afgritech or on behalf of Afgritech has ever made any search, inquiry, or investigation relating to the AMINOGREEN Mark in the United States – as Afgritech represented in its Interrogatory Response No. 7.

23. Admit that Afgritech has not received any opinion relating to whether there is a likelihood of confusion between the AMINOGREEN Mark and any other mark, other than the May 12, 2011 opinion of Thomas H. Van Hoozer that Afgritech identified in its Interrogatory Response No. 9.

24. Admit that Afgritech has not budgeted or expended any money to promote the AMINOGREEN Mark in the United States – as Afgritech represented in its Interrogatory Response No. 15.

25. Admit that Afgritech has not received any income, or projected any anticipated income, from the sale of goods or services under the AMINOGREEN Mark in the United States – as Afgritech represented in its Interrogatory Response No. 16.

26. Admit that Afgritech has no promotional documents or items that have been used or are being considered for use by Afgritech in connection with the promotion and sale of Afgritech's goods and services under the AMINOGREEN Mark in the United States – as Afgritech represented in its Interrogatory Response No. 22.

27. Admit that Afgritech cannot identify any person with knowledge of any market research (including surveys, studies, investigations, and focus-group inquiries) conducted by or on behalf of Afgritech relating to the AMINOGREEN Mark in the United States – as Afgritech represented in its Interrogatory Response No. 28.

28. Admit that Afgritech cannot identify any person or agency that has participated in the creation or distribution of advertisements or promotions for Afgritech's goods or services under the AMINOGREEN Mark in the United States – as Afgritech represented in its Interrogatory Response No. 37.

29. Admit that Afgritech filed its PTO Application Serial Number 85/096,047 for the AMINOGREEN Mark on July 29, 2010.

30. Admit that on June 7, 2010, the PTO mailed a "Notice of Abandonment" to Thomas H. Van Hoozer, counsel for Afgritech, noting that Afgritech's Application Serial Number 78/917,849 for the mark AMINOGREEN for "animal feed supplement" and "livestock feed" was abandoned because Afgritech had failed to file for a statement of use or an extension of time.

31. Admit that Afgritech has no documents in its possession, custody, or control relating to Afgritech's intent to use the AMINOGREEN Mark in the United States, other than the PTO application and prosecution file history therefor.

32. Admit that the documents that Afgritech has produced to Evonik bearing the Bates-labels AFGR000001 through AFGR000052 are authentic under FED. R. EVID. 901-903 and constitute records kept in the course of a regularly conducted activity of a business, organization, occupation, or calling under FED. R. EVID. 803(6)(B).

Respectfully submitted this 24th day of January, 2012.

SMITH, GAMBRELL & RUSSELL, LLP



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Attorneys for Evonik Degussa GmbH

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

In the Matter of Application Serial Nos. 85/096,047 and 79/083,600

| | | |
|---------------------|---|----------------------------------|
| Evonik Degussa GmbH |) | |
| |) | |
| |) | |
| v. |) | Opposition No. 91199752 (parent) |
| |) | Opposition No. 91200334 |
| |) | |
| Afgriotech Ltd. |) | |
| |) | |
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| |) | |

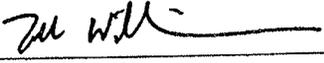
CERTIFICATE OF SERVICE

I, Todd D. Williams, counsel for Evonik Degussa GmbH, do hereby certify that Evonik Degussa GmbH's First Set of Requests for Admission was on this day served upon Afgriotech Ltd. pursuant to 37 C.F.R. § 2.119(b)(4) by first-class mail, addressed as follows:

Thomas H. Van Hoozer
Hovey Williams LLP
10801 Mastin Blvd. Suite 1000
Overland Park, KS 66210

Pursuant to 37 C.F.R. § 2.119(b)(6) and to the July 21, 2011 letter between counsel for Evonik and Afgriotech, a courtesy copy was also sent by email.

This 24th day of January, 2012.



Todd D. Williams

EXHIBIT 6

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

| | | |
|----------------------|---|----------------------------------|
| Evonik Degussa GmbH, |) | |
| |) | |
| Opposer, |) | |
| |) | |
| v. |) | Opposition No. 91199752 (parent) |
| |) | 91200034 |
| |) | |
| |) | |
| Afgritech Ltd., |) | |
| |) | |
| Applicant. |) | |

**AFGRITECH'S ANSWERS TO EVONIK'S
FIRST SET OF REQUESTS FOR ADMISSION TO APPLICANT**

Applicant Afgritech, Ltd. ("Afgritech"), pursuant to Federal Rule of Civil Procedure 26 and 36, as incorporated into the Rules of Practice in Trademark Cases under the provisions of 37 C.F.R. 2.116 and Rule 2.120 of the Trademark Rules of Practice, answers Opposer Evonik Degussa GmbH ("Opposer") First Set of Requests for Admission addressed to Afgritech. Afgritech reserves the right to supplement these responses upon the discovery of additional documents through discovery or otherwise.

REQUESTS FOR ADMISSION

REQUEST No. 1:

Admit that Afgritech has no documents in its possession, custody, or control relating to the creation, selection, and adoption of the AMINOGREEN Mark in the United States other than the application therefor, which is the subject of this opposition and is available online at the PTO website - as Afgritech represented in its Document Response No.1.

ANSWER: Applicant denies this Request to the extent that it requests Afgritech to admit that it has "no documents other than the application therefor"; Afgritech does admit this Request to the extent that the Request is limited to "non-privileged documents."

REQUEST No. 2:

Admit that Afgritech has no documents in its possession, custody, or control relating to any trademark, service mark, or Internet domain name investigation or search conducted by

Afgritech or on behalf of Afgritech relating to the AMINOGREEN Mark in the United States - as Afgritech represented in its Document Response No. 3.

ANSWER: Admit.

REQUEST No. 3:

Admit that Afgritech has no documents in its possession, custody, or control relating to Afgritech's decision to apply for a federal registration for the AMINOGREEN Mark in the United States other than the application therefor, which is the subject of this opposition and is available online at the PTO website - as Afgritech represented in its Document Response No.5.

ANSWER: Applicant denies this Request to the extent that it requests Afgritech to admit that it has "no documents" and to the extent that it does not include a reference to the application and records available online from the United States Patent and Trademark Office for application no. 78/917,849 referenced in Request No. 30. Other than the application and prosecution file for application no. 78/917,849 and subject to the foregoing, Afgritech does admit this Request to the extent that the Request is limited to "non-privileged documents."

REQUEST No. 4:

Admit that Afgritech has no documents in its possession, custody, or control relating to Afgritech's anticipated first use in commerce of the AMINOGREEN Mark in the United States - as Afgritech represented in its Document Response No. 9.

ANSWER: Admit.

REQUEST No. 5:

Admit that Afgritech has no documents in its possession, custody, or control demonstrating the type(s) of goods or services in connection with which Afgritech intends to use the AMINOGREEN Mark in the United States - as Afgritech represented in its Document Response No. 11.

ANSWER: Afgritech denies this Request to the extent that it has produced documents demonstrating the types of goods sold under the AMINOMAX mark and anticipates that goods which will be sold under the AMINOGREEN mark will be similar thereto. Afgritech admits this Request to the extent that it has no documents as referenced in this Request specific to the AMINOGREEN mark.

REQUEST No. 6:

Admit that Afgritech has no documents in its possession, custody, or control relating to the geographic areas and channels of trade in which Afgritech intends to use the AMINOGREEN Mark in the United States - as Afgritech represented in its Document Response No. 13.

ANSWER: Afgritech denies this Request to the extent that it has produced documents relating to the geographic areas and channels of trade for goods sold under the AMINOMAX mark and anticipates that goods which will be sold under the AMINOGREEN mark will be sold in similar geographic areas and in similar channels of trade. Afgritech admits this Request to the extent that it has no documents as referenced in this Request specific to the AMINOGREEN mark.

REQUEST No. 7:

Admit that Afgritech has no documents in its possession, custody, or control relating to the advertising, marketing, and promotional materials in which Afgritech intends to use the AMINOGREEN Mark in the United States - as Afgritech represented in its Document Response No. 15.

ANSWER: Afgritech denies this Request to the extent that it has produced documents relating to the advertising, marketing and promotional materials in which Afgritech uses the AMINOMAX mark and anticipates that goods which will be sold under the AMINOGREEN mark will be advertised, marketed and promoted in a similar manner. Afgritech admits this Request to the extent that it has no documents as referenced in this Request specific to the AMINOGREEN mark.

REQUEST No. 8:

Admit that Afgritech has no documents in its possession, custody, or control relating to any assignment, consent, authorization, license or permission between Afgritech and any individual(s) or entity(ies) relating to the AMINOGREEN Mark in the United States – as Afgritech represented in its Document Response No. 17.

ANSWER: Admit.

REQUEST No. 9:

Admit that Afgritech has no documents in its possession, custody, or control relating to Afgritech's ownership of the AMINOGREEN Mark in the United States, other than the PTO prosecution file history for the AMINOGREEN Mark - as Afgritech represented in its Document Response No. 19.

ANSWER: Admit.

REQUEST No. 10:

Admit that Afgritech has no specimens of any product, label, packaging, tag, brochure, advertisement, promotional item, informational literature, or invoice in its possession, custody, or control that Afgritech (or another party with Afgritech's consent) intends to use in the United States depicting or bearing any form of the AMINOGREEN Mark - as Afgritech represented in its Document Response No. 21.

ANSWER: Admit.

REQUEST No. 11:

Admit that Afgritech has no documents in its possession, custody, or control relating to any product, label, packaging, tag, brochure, advertisement, promotional item, informational literature, or invoice that Afgritech (or another party with Afgritech's consent) intends to use in the United States depicting or bearing any form of the AMINOGREEN Mark as Afgritech represented in its Document Response No. 23.

ANSWER: Admit.

REQUEST No. 12:

Admit that Afgritech has no specimens in its possession, custody, or control showing each and every variation of the AMINOGREEN Mark intended to be used in the United States by Afgritech or on behalf of Afgritech - as Afgritech represented in its Document Response No. 24.

ANSWER: Admit.

REQUEST No. 13:

Admit that Afgritech has no documents in its possession, custody, or control relating to any printed or electronic media publication in which Afgritech plans to advertise or promote its goods or services in commerce under the AMINOGREEN Mark in the United States - as Afgritech represented in its Document Response No. 26.

ANSWER: Afgritech denies this Request to the extent that it has produced documents relating to the printed media in which Afgritech uses the AMINOMAX mark and anticipates that goods which will be sold under the AMINOGREEN mark will appear and be promoted in a similar manner. Afgritech admits this Request to the extent that it has no documents as referenced in this Request specific to the AMINOGREEN

REQUEST No. 14:

Admit that Afgritech has no documents in its possession, custody, or control relating to Afgritech's past, present, and future marketing plans that relate to the AMINOGREEN Mark in the United States - as Afgritech represented in its Document Response No. 28.

ANSWER: Admit.

REQUEST No. 15:

Admit that Afgritech has no documents in its possession, custody, or control relating to the types of customers with whom Afgritech intends to do business in connection with the AMINOGREEN Mark in the United States, and the ultimate purchasers to whom Afgritech intends to offer goods or services under the AMINOGREEN Mark in the United States – as Afgritech represented in its Document Response No. 30.

ANSWER: Afgritech denies this Request to the extent that it has produced documents relating to the types of customers to which products bearing the AMINOMAX mark are sold and anticipates that goods which will be sold under the AMINOGREEN mark will be sold to similar customers. Afgritech admits this Request to the extent that it has no documents as referenced in this Request specific to the AMINOGREEN mark.

REQUEST No. 16:

Admit that Afgritech has no documents in its possession, custody, or control relating to any market, demographic, or consumer-profile study, or focus-group inquiry, relating to the AMINOGREEN Mark in the United States - as Afgritech represented in its Document Response No. 32.

ANSWER: Admit.

REQUEST No. 17:

Admit that Afgritech has no documents in its possession, custody, or control relating to the dollar value of the actual and/or projected sales of Afgritech's goods and services under the AMINOGREEN Mark in the United States - as Afgritech represented in its Document Response No. 34.

ANSWER: Admit.

REQUEST No. 18:

Admit that Afgritech has no documents in its possession, custody, or control relating to its methods of distribution of Afgritech's goods or services under the AMINOGREEN Mark in the United States - as Afgritech represented in its Document Response No. 36.

ANSWER: Admit.

REQUEST No. 19:

Admit that Afgritech has no documents in its possession, custody, or control relating to the amount of money that Afgritech has expended and/or budgeted to promote its goods or services under the AMINOGREEN Mark in the United States - as Afgritech represented in its Document Response No. 38.

ANSWER: Admit.

REQUEST No. 20:

Admit that Afgritech has no corporate minutes, resolutions, or any other corporate records relating to the AMINOGREEN Mark.

ANSWER: Admit.

REQUEST No. 21:

Admit that Afgritech has no supervisory employees responsible for the promotion, sale, or distribution of Afgritech's goods and services under the AMINOGREEN Mark in the United States - as Afgritech represented in its Interrogatory Response No.1.

ANSWER: Afgritech denies this Request to the extent that its supervisory employees responsible for the promotion, sale, and distribution of its AMINOMAX goods will likely be those who will be responsible for the promotion, sale or distribution of Afgritech's goods to be sold under the AMINOGREEN mark in the United States; to the extent the Request is limited to current promotion, sale and distribution of goods under the AMINOGREEN mark, Afgritech admits this Request.

REQUEST No. 22:

Admit that no person at Afgritech or on behalf of Afgritech has ever made any search, inquiry, or investigation relating to the AMINOGREEN Mark in the United States – as Afgritech represented in its Interrogatory Response No.7.

ANSWER: Admit.

REQUEST No. 23:

Admit that Afgritech has not received any opinion relating to whether there is a likelihood of confusion between the AMINOGREEN Mark and any other mark, other than the May 12, 2011 opinion of Thomas H. Van Hoozer that Afgritech identified in its Interrogatory Response No.9.

ANSWER: Admit.

REQUEST No. 24:

Admit that Afgritech has not budgeted or expended any money to promote the AMINOGREEN Mark in the United States - as Afgritech represented in its Interrogatory Response No. 15.

ANSWER: Admit.

REQUEST No. 25:

Admit that Afgritech has not received any income, or projected any anticipated income, from the sale of goods or services under the AMINOGREEN Mark in the United States - as Afgritech represented in its Interrogatory Response No. 16.

ANSWER: Admit.

REQUEST No. 26:

Admit that Afgritech has no promotional documents or items that have been used or are being considered for use by Afgritech in connection with the promotion and sale of Afgritech's goods and services under the AMINOGREEN Mark in the United States – as Afgritech represented in its Interrogatory Response No. 22.

ANSWER: Admit.

REQUEST No. 27:

Admit that Afgritech cannot identify any person with knowledge of any market research (including surveys, studies, investigations, and focus-group inquiries) conducted by or on behalf of Afgritech relating to the AMINOGREEN Mark in the United States - as Afgritech represented in its Interrogatory Response No. 28.

ANSWER: Admit.

REQUEST No. 28:

Admit that Afgritech cannot identify any person or agency that has participated in the creation or distribution of advertisements or promotions for Afgritech's goods or services under the AMINOGREEN Mark in the United States - as Afgritech represented in its Interrogatory Response No. 37.

ANSWER: Admit.

REQUEST No. 29:

Admit that Afgritech filed its PTO Application Serial Number 85/096,047 for the AMINOGREEN Mark on July 29,2010.

ANSWER: Admit.

REQUEST No. 30:

Admit that on June 7, 2010, the PTO mailed a "Notice of Abandonment" to Thomas H. Van Hoozer, counsel for Afgritech, noting that Afgritech's Application Serial Number 78/917,849 for the mark AMINOGREEN for "animal feed supplement" and "livestock feed" was abandoned because Afgritech had failed to file for a statement of use or an extension of time.

ANSWER: Admit.

REQUEST No. 31:

Admit that Afgritech has no documents in its possession, custody, or control relating to Afgritech's intent to use the AMINOGREEN Mark in the United States, other than the PTO application and prosecution file history therefor.

ANSWER: Applicant denies this Request to the extent that it requests Afgritech to admit that it has "no documents other than the PTO application and file history therefor" and to the extent

that it does not include a reference to the application and records available online from the United States Patent and Trademark Office for application no. 78/917,849 referenced in Request No. 30. Other than the application and prosecution file for application no. 78/917,849 and subject to the foregoing; Afgritech does admit this Request to the extent that the Request is limited to “non-privileged documents.”

REQUEST No. 32:

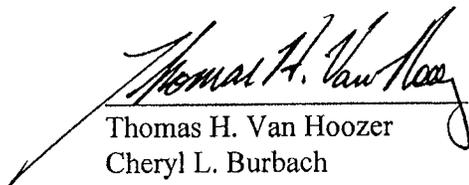
Admit that the documents that Afgritech has produced to Evonik bearing the Bates-labels AFGR000001 through AFGR000052 are authentic under FED. R. EVID. 901-903 and constitute records kept in the course of a regularly conducted activity of a business, organization, occupation, or calling under FED. R. EVID. 803(6)(B).

ANSWER: Admit.

Dated: March 2, 2012

Respectfully Submitted,

HOVEY WILLIAMS LLP



Thomas H. Van Hoozer
Cheryl L. Burbach
Suite 1000, 10801 Mastin Boulevard
Overland Park, Kansas 66210
Phone: (913) 647-9050
Fax: (913) 647-9057
Email: tvh@hoveywilliams.com
clb@hoveywilliams.com

ATTORNEYS FOR AFGRITECH AFGRITECH LTD.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 2nd day of March, 2012, the foregoing **AFGRITECH'S OBJECTIONS AND RESPONSES TO OPPOSER'S FIRST SET OF REQUESTS FOR ADMISSION TO APPLICANT** has been served on counsel for Afgritech via First Class U.S. Mail to the following address:

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

ATTORNEY FOR OPPOSER EVONIK DEGUSSA GMBH

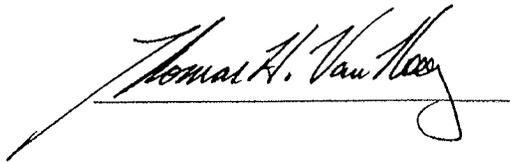
A handwritten signature in cursive script, reading "Thomas A. Van Ness", is written over a horizontal line. The signature is fluid and extends above and below the line.

EXHIBIT 7

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

In the Matter of Application Serial Nos. 85/096,047 and 79/083,600

| | | |
|---------------------|---|-------------------------|
| Evonik Degussa GmbH |) | |
| |) | |
| v. |) | Opposition No. 91199752 |
| |) | (parent) |
| |) | Opposition No. 91200334 |
| |) | |
| Afgritech Ltd. |) | |
| |) | |
| |) | |
| _____ |) | |

**OPPOSER EVONIK DEGUSSA GMBH'S SECOND SET OF
REQUESTS FOR ADMISSION TO APPLICANT AFGRITECH LTD.**

Pursuant to the provisions of Rule 2.116 and 2.120 of the Trademark Rules of Practice, Rules 26 and 36 of the Federal Rules of Civil Procedure, and the Board's Order dated August 14, 2012, Opposer Evonik Degussa GmbH ("Opposer" or "Evonik") hereby requests that Applicant Afgritech Ltd. ("Applicant" or "Afgritech") admit or deny the truth of the statements below:

DEFINITIONS

The Definitions set forth in Opposer's First Set of Requests for Admission are incorporated by reference as if fully set forth herein.

REQUESTS

Admit the following:

REQUEST NO. 33:

The documents that Afgritech produced to Evonik bearing the Bates-labels AFGR000053 through AFGR000108 are authentic under Fed. R. Evid. 901-903 and constitute records kept in the course of a regularly conducted activity of a business, organization, occupation, or calling under Fed. R. Evid. 803(6)(B).

REQUEST NO. 34:

You never made any use of the AMINOGREEN mark in the United States.

REQUEST NO. 35:

None of your licensees have ever made any use of the AMINOGREEN mark in the United States.

REQUEST NO. 36:

You are not aware of any incidents of actual confusion between the AMINOMAX mark and AMINORED mark in the United States.

Respectfully submitted, this 30th day of October, 2012.

/s/ Elizabeth G. Borland
Scott D. Woldow
Smith, Gambrell & Russell, LLP
1130 Connecticut Ave., N.W.
Suite 1130
Washington, D.C. 20036
Phone (202) 263-4300
Facsimile (202) 263-4329
Email: sdwoldow@sgrlaw.com

J. Rodgers Lunsford III
Elizabeth G. Borland
Smith, Gambrell & Russell, LLP
1230 Peachtree St. NE
Promenade II, Suite 3100
Atlanta, GA 30309
(404) 815-3628
Facsimile: (404) 685-6928
Email: rlunsford@sgrlaw.com
egborland@sgrlaw.com

Attorneys for Evonik Degussa GmbH

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

In the Matter of Application Serial Nos. 85/096,047 and 79/083,600

| | | |
|---------------------|---|-------------------------|
| Evonik Degussa GmbH |) | |
| |) | |
| v. |) | Opposition No. 91199752 |
| |) | (parent) |
| |) | Opposition No. 91200334 |
| |) | |
| Afgritech Ltd. |) | |
| |) | |
| _____ |) | |

CERTIFICATE OF SERVICE

I, Elizabeth G. Borland, counsel for Evonik Degussa GmbH, do hereby certify that Evonik Degussa GmbH's Second Set of Requests for Admission was on this day served upon Afgritech Ltd. pursuant to 37 C.F.R. § 2.119(b)(4) by first-class mail, addressed as follows:

Thomas H. Van Hoozer
Cheryl Burbach
Hovey Williams LLP
10801 Mastin Blvd. Suite 1000
Overland Park, KS 66210

Pursuant to 37 C.F.R. § 2.119(b)(6) and to the July 21, 2011 letter between counsel for Evonik and Afgritech, a courtesy copy was also sent by email.

This 30th day of October, 2012.

/s/ Elizabeth G. Borland
Elizabeth G. Borland

EXHIBIT 8

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

| | | |
|----------------------|---|----------------------------------|
| Evonik Degussa GmbH, |) | |
| |) | |
| Opposer, |) | |
| |) | |
| v. |) | Opposition No. 91199752 (parent) |
| |) | 91200034 |
| |) | |
| Afgritech Ltd., |) | |
| |) | |
| Applicant. |) | |

**AFGRITECH'S OBJECTIONS AND RESPONSES TO OPPOSER'S SECOND SET OF
REQUESTS FOR ADMISSION TO APPLICANT AFGRITECH LTD.**

Applicant Afgritech, Ltd. ("Afgritech"), pursuant to Federal Rule of Civil Procedure 26 and 36, as incorporated into the Rules of Practice in Trademark Cases under the provisions of 37 C.F.R. 2.116 and Rule 2.120 of the Trademark Rules of Practice, objects and responds to Opposer Evonik Degussa GmbH ("Opposer") Second Set of Requests for Admission addressed to Afgritech. Afgritech reserves the right to supplement these responses upon the discovery of additional documents through discovery or otherwise.

REQUESTS FOR ADMISSION

REQUEST NO. 33:

The documents that Afgritech produced to Evonik bearing the Bates-labels AFGR000053 through AFGR000108 are authentic under Fed. R. Evid. 901-903 and constitute records kept in the course of a regularly conducted activity of a business, organization, occupation, or calling under Fed. R. Evid. 803(6)(B).

ANSWER: Admitted.

REQUEST NO. 34:

You never made any use of the AMINOGREEN mark in the United States.

ANSWER: Denied.

REQUEST NO. 35:

None of your licensees have ever made any use of the AMINOGREEN mark in the United States.

ANSWER: Afgritech objects on the basis that the request is vague and ambiguous in using the term "licensees." Subject to that and the general objections, Afgritech denies the request as its wholly-owned subsidiary (and, thus, a related party), Afgritech LLC, has made use of the AMINOGREEN mark in the United States.

REQUEST NO. 36:

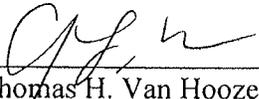
You are not aware of any incidents of actual confusion between the AMINOMAX mark and AMINORED mark in the United States.

ANSWER: Admitted.

Dated: December 4, 2012

Respectfully Submitted,

HOVEY WILLIAMS LLP



Thomas H. Van Hoozer
Cheryl L. Burbach
Suite 1000, 10801 Mastin Boulevard
Overland Park, Kansas 66210
Phone: (913) 647-9050
Fax: (913) 647-9057
Email: tvh@hoveywilliams.com
clb@hoveywilliams.com

ATTORNEYS FOR AFGRITECH AFGRITECH LTD.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 4th day of December, 2012, the foregoing **AFGRITECH'S OBJECTIONS AND RESPONSES TO OPPOSER'S SECOND SET OF REQUESTS FOR ADMISSION** has been served on counsel for Afgritech via First Class U.S.

Mail to the following address:

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

J. Rodgers Lunsford III, Esq.
Elizabeth G. Borland, Esq.
Smith, Gambrell & Russell, LLP
1230 Peachtree St. NE
Promenade II, Suite 3100
Atlanta, GA 30309

ATTORNEYS FOR OPPOSER
EVONIK DEGUSSA GMBH

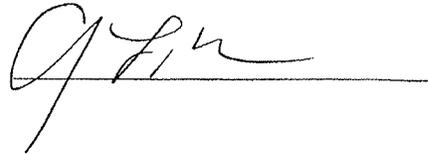
A handwritten signature in black ink, appearing to read "J. Rodgers Lunsford III", is written over a horizontal line.

EXHIBIT 9

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

In the Matter of Application Serial Nos. 85/096,047 and 79/083,600

| | | |
|---------------------|---|-------------------------|
| Evonik Degussa GmbH |) | |
| |) | |
| v. |) | Opposition No. 91199752 |
| |) | (parent) |
| |) | Opposition No. 91200334 |
| |) | |
| Afgritech Ltd. |) | |
| |) | |
| |) | |
| _____ |) | |

**OPPOSER EVONIK DEGUSSA GMBH'S THIRD SET OF
INTERROGATORIES TO APPLICANT AFGRITECH LTD.**

Pursuant to the provisions of Rule 2.120 of the Trademark Rules of Practice, Rules 26 and 33 of the Federal Rules of Civil Procedure, and the Board's Order dated August 14, 2012, Opposer Evonik Degussa GmbH ("Opposer" or "Evonik") propounds its Third Set of Interrogatories to be answered separately under oath by Applicant Afgritech Ltd.

DEFINITIONS

The Definitions set forth in Opposer's First Set of Interrogatories are incorporated by reference as if fully set forth herein.

INTERROGATORIES

INTERROGATORY NO. 59:

State the legal and factual basis for your denial of Request for Admissions Nos. 34 and 35 in Opposer's Second Set of Requests for Admission to Afgritech Ltd.

Respectfully submitted, this 2nd day of January, 2013.

/s/ Elizabeth G. Borland
Scott D. Woldow
Smith, Gambrell & Russell, LLP
1130 Connecticut Ave., N.W.
Suite 1130
Washington, D.C. 20036
Phone (202) 263-4300
Facsimile (202) 263-4329
Email: sdwoldow@sgrlaw.com

Elizabeth G. Borland
Smith, Gambrell & Russell, LLP
1230 Peachtree St. NE
Promenade II, Suite 3100
Atlanta, GA 30309
(404) 815-3628
Facsimile: (404) 685-6928
Email: egborland@sgrlaw.com

Attorneys for Evonik Degussa GmbH

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

In the Matter of Application Serial Nos. 85/096,047 and 79/083,600

| | | |
|---------------------|---|-------------------------|
| Evonik Degussa GmbH |) | |
| |) | |
| v. |) | Opposition No. 91199752 |
| |) | (parent) |
| |) | Opposition No. 91200334 |
| |) | |
| Afgritech Ltd. |) | |
| |) | |
| |) | |
| _____ |) | |

CERTIFICATE OF SERVICE

I, Elizabeth G. Borland, counsel for Evonik Degussa GmbH, do hereby certify that Evonik Degussa GmbH's Third Set of Interrogatories was on this day served upon Afgritech Ltd. pursuant to 37 C.F.R. § 2.119(b)(4) by first-class mail, addressed as follows:

Thomas H. Van Hoozer
Cheryl Burbach
Hovey Williams LLP
10801 Mastin Blvd. Suite 1000
Overland Park, KS 66210

Pursuant to 37 C.F.R. § 2.119(b)(6) and to the July 21, 2011 letter between counsel for Evonik and Afgritech, a courtesy copy was also sent by email.

This 2nd day of January, 2013.

/s/ Elizabeth G. Borland
Elizabeth G. Borland

EXHIBIT 10

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

| | | |
|------------------------|---|----------------------------------|
| Evonik Degussa GmbH, |) | |
| |) | |
| Opposer, |) | |
| |) | |
| v. |) | Opposition No. 91199752 (parent) |
| |) | 91200034 |
| |) | |
| Afgritech Ltd. et al., |) | |
| |) | |
| Applicant. |) | |

**AFGRITECH'S OBJECTIONS AND RESPONSES TO OPPOSER'S THIRD SET OF
INTERROGATORIES TO APPLICANT AFGRITECH LTD.**

Applicant Afgritech, Ltd. ("Afgritech"), pursuant to Federal Rule of Civil Procedure 34, as incorporated into the Rules of Practice in Trademark Cases under the provisions of 37 C.F.R. 2.116 and Rule 2.120 of the Trademark Rules of Practice, objects and responds to Opposer Evonik Degussa GmbH ("Opposer") Third Set of Interrogatories addressed to Afgritech. Afgritech reserves the right to supplement these responses upon the discovery of additional documents through discovery or otherwise. Some of Afgritech's answers to the discovery requests contain **Confidential Business Information/Trade Secrets** and those answers are being submitted on separate pages.

GENERAL OBJECTIONS

1. Afgritech objects to each interrogatory to the extent it contains multiple discrete subparts. Afgritech further objects to the entirety of Opposer's First Set of Interrogatories on the basis that the number of interrogatories, including subparts, exceed 75 in number. *See* 37 C.F.R. 2.120(d)(1); TBMP § 405.03(e).
2. Afgritech generally objects to each and every request to the extent it calls for the disclosure of attorney-client privileged communications and/or attorney work product. Afgritech will not undertake to locate and log communications between Afgritech and counsel regarding the subject matter of this opposition dated after the institution of the opposition pursuant to the prior agreement with Opposer's counsel.
3. Afgritech objects to each discovery request and it has not responded to the extent that the requests seek "each," "any," "all," "related," or "relating" information as overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence, if by these terms, Opposer purports to require Afgritech to investigate for and produce all

information and materials touching on the subject of the interrogatory. Afgritech is interpreting such requests as calling for the identification or production of information or materials, to the extent not objected to, which most fully or directly address the subject of the requests, or is representative of the subject information or materials of Afgritech. If, by these terms in the interrogatories, Opposer expects Afgritech to also divulge information or material which is repetitive, cumulative, or only incidentally related to the interrogatory subject, then Afgritech objects to this purported scope on the basis that such requests are vague, overbroad, unduly burdensome, oppressive, and not reasonably calculated to lead to the discovery of admissible evidence.

4. Afgritech objects to the extent that there are no time limitations set forth in Opposer's interrogatories rendering some of them overbroad, unduly burdensome, not relevant, and not reasonably calculated to lead to the discovery of admissible evidence. Afgritech will not undertake to log communications between Afgritech and counsel for Afgritech dated after the institution of this opposition regarding this opposition nor the actions of counsel or actions taken at counsel's direction in furtherance of this opposition.
5. Afgritech objects to divulging information which contains commercially sensitive information, business trade secrets, or other confidential information to the extent not already provided for by the Protective Order entered by the Board pursuant to 37 C.F.R. § 2.116(g) or any other protective order entered by the parties. Any information subject to production that contains commercially sensitive information, business trade secrets, or other confidential information shall be produced subject to the Protective Order entered by the Board pursuant to 37 C.F.R. § 2.116(g) or any other protective order entered by the parties.
6. Afgritech objects to each interrogatory to the extent that it calls for information not reasonably available to, or not within the possession, custody, or control of Afgritech. The responses below are based on information reasonably available to Afgritech and information within AL's possession, custody, or control.
7. Each of the foregoing objections shall be considered continuing and are hereby incorporated by reference into each specific response.

INTERROGATORIES

INTERROGATORY NO. 59:

State the legal and factual basis for your denial of Request for Admissions Nos. 34 and 35 in Opposer's Second Set of Requests for Admission to Afgritech Ltd.

ANSWER: Afgritech objects on the basis that the request is compound and exceeds the permissible number of interrogatories that may be served on a party. Subject to that and the General Objections, Afgritech states Afgritech and its Licensee, Afgritech LLC, have made use of the AMINOGREEN mark in the United States in internal business documents and communications and has produced copies of documents evidencing such use.

Dated: February 8, 2013

Respectfully Submitted,

HOVEY WILLIAMS LLP



Thomas H. Van Hoozer

Cheryl L. Burbach

Suite 1000, 10801 Mastin Boulevard

Overland Park, Kansas 66210

Phone: (913) 647-9050

Fax: (913) 647-9057

Email: tvh@hoveywilliams.com

clb@hoveywilliams.com

ATTORNEYS FOR AFGRITECH LTD.

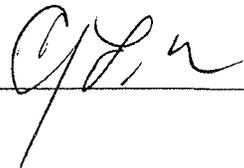
CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 8th day of February, 2013, the foregoing **AFGRITECH'S OBJECTIONS AND RESPONSES TO OPPOSER'S THIRD SET OF INTERROGATORIES TO AFGRITECH** has been served on counsel for Afgritech via First Class U.S. Mail to the following address:

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

Elizabeth G. Borland, Esq.
Smith, Gambrell & Russell, LLP
1230 Peachtree St. NE
Promenade II, Suite 3100
Atlanta, GA 30309

ATTORNEYS FOR OPPOSER
EVONIK DEGUSSA GMBH



VERIFICATION

COUNTRY

STATE OF INDIANA)
) ss.
COUNTY OF CAMMELT)

I, RONALD WOOD being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, and that such willful false statements and the like may jeopardize the validity of the application or document or any registration resulting therefrom, declare that all statements made of my own knowledge are true; and all statements made on information and belief are believed to be true.

Dated: 07 FEBRUARY 2013

Ronald Wood
Signature of RONALD WOOD