

UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

Am

Mailed: November 5, 2013

Opposition No. 91199752

Opposition No. 91200334

Evonik Degussa GmbH

v.

Afgritech Ltd. and Carr's  
Agriculture Limited

**Benjamin U. Okeke, Interlocutory Attorney:**

On October 16, 2013, the parties filed proposed amendments to their respective applications, Serial Nos. 85096047 and 79083600, with each other's consent in their positions as opposer in the respective proceedings.

Opposition No. 91199752

By the proposed amendment applicant seeks to change the identification of goods in Application Serial No. 85096047 to add the following underlined language:

***International Class 5:***

animal feed supplement for livestock being raised for the purpose of milk production.

***International Class 31:***

feed for livestock being raised for the purpose of milk production.

**Opposition Nos. 91199752 and 91200334**

Inasmuch as the amendment is clearly limiting in nature as required by Trademark Rule 2.71(a), and because opposer consents, it is approved and entered. See Trademark Rule 2.133(a).

Opposition No. 91200334

By the proposed amendment applicant seeks to delete International Classes 1 and 31 in their entirety and amend the identification of goods in the remaining classes in Application Serial No. 79083600 to remove the following struck language:

***International Class 9:***

~~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 41:***

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 42:***

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.

**Opposition Nos. 91199752 and 91200334**

In an opposition to an application having multiple classes, if the applicant files a request to amend the application to delete an opposed class, the request for amendment is, in effect, an abandonment of the application with respect to that class, and is governed by Trademark Rule 2.135. TBMP § 605.03(b) (3d ed. rev. 2013).

In view of the foregoing, application **Serial No. 79083600 stands abandoned as to the opposed goods in International Classes 1 and 31 only.** The resulting identification of goods in Application Serial No. 79083600 is as follows:

***International Class 9:***

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.

***International Class 041:***

Education and instruction, namely, conducting conferences, congresses, symposiums and colloquiums in the field of feedstuff and animal nutrition; 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; arranging and conducting of seminars and workshops, especially for experts in field of animal nutrition.

***International Class 042:***

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

**Opposition Nos. 91199752 and 91200334**

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; technical consulting services for the animal feed industry about scientific research in the use of animal feed ingredients; 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.

Inasmuch as the amendment is clearly limiting in nature as required by Trademark Rule 2.71(a), and because opposer consents, it is approved and entered. See Trademark Rule 2.133(a).

If this resolves the dispute, opposer is allowed until **THIRTY DAYS** from the mailing date of this order to file a withdrawal of the opposition, failing which the opposition will go forward on the application as amended. See Trademark Rule 2.106(c).