

ESTTA Tracking number: **ESTTA453349**

Filing date: **01/26/2012**

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

| | |
|---------------------------|---|
| Proceeding | 91200105 |
| Party | Plaintiff NOVOZYMES BIOAG, INC. |
| Correspondence Address | EDWARD M PRINCE ALSTON & BIRD LLP 950 F STREET NW, THE ATLANTIC BUILDING WASHINGTON, DC 20004 UNITED STATES edward.prince@alston.com |
| Submission | Answer to Counterclaim |
| Filer's Name | Edward M. Prince |
| Filer's e-mail | edward.prince@alston.com |
| Signature | /Edward M. Prince/ |
| Date | 01/26/2012 |
| Attachments | Opposer's Answers to Counterclaim.PDF (4 pages)(60515 bytes) |

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

| | | |
|------------------------|---|-------------------------|
| NOVOZYMES BIOAG, INC. |) | |
| |) | |
| Opposer, |) | |
| |) | |
| v. |) | Opposition No. 91200105 |
| |) | |
| CLEARY CHEMICALS, LLC, |) | |
| |) | |
| Applicant. |) | |

OPPOSER'S ANSWERS TO COUNTERCLAIMS

Now comes opposer and in answer to the amended counterclaims states as follows. If either the motion to strike or the motion for judgment on the pleadings under F.R.C.P. 12(c) or the motion for summary judgment is denied, Opposer, Novozymes BioAg, Inc., answers the counterclaims as follows:

Request to Restrict Identification of Goods

1. Opposer admits the averments of paragraph 1.
2. Opposer admits the averments of paragraph 2.
3. Opposer admits the averments of paragraph 3.
4. Opposer denies that the agricultural chemicals market is highly segmented such that Cleary's goods and Novozymes BioAg, Inc.'s goods are not sold nor are they likely to be sold through the same channels of trade or by the same distributors or to the same end customers. Opposer is without knowledge or information sufficient to form a belief as to the truth of all other averments of paragraph 4 and therefore denies the same.
5. Opposer denies the averments of paragraph 5.

6. Opposer admits the averments of paragraph 6.
7. Opposer denies the averments of paragraph 7.
8. Opposer denies the averments of paragraph 8.

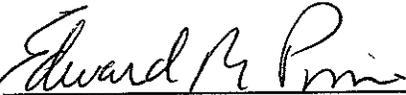
Cancellation

1. Opposer denies the averments of paragraph 1.
2. Opposer is without knowledge or information sufficient to form a belief as to the truth of paragraph 2 and therefore denies the same.
3. Opposer is without knowledge or information sufficient to form a belief as to the truth of paragraph 3 and therefore denies the same.
4. Opposer admits the averments of paragraph 4.
5. Opposer admits that the original application was filed under Section 1(a) of the Trademark Act, that no specimen was initially provided and that no date of first use anywhere was initially provided. Applicant further admits that the application was not initially signed and verified. Opposer admits that the specimen was submitted with a 2008 copyright date. Opposer denies all other averments of paragraph 5.

WHEREFOR, Opposer demands that a judgment be entered dismissing the counterclaims and holding that Applicant is not entitled to the registration for which it has made application.

Respectfully submitted,

Novozymes BioAg, Inc.
By its Attorneys

By: 

Edward M. Prince, Esq.
Alston & Bird LLP
The Atlantic Building
950 F Street, NW
Washington, DC 20004
(202) 239-3358

Date: January 26, 2012

Certificate of Service

I hereby certify that on January 26, 2012 a true and correct copy of Opposer's Answers to Counterclaims were served by first-class mail, postage prepaid, with a courtesy email, to counsel for Applicant, Cleary Chemicals, Inc.:

Tama L. Drenski
Renner, Kenner, Greive, Bobak, Taylor & Weber
Fourth Floor, First National Tower
Akron, Ohio 44308-1456
Email: tdrenski@rennerkenner.com

By: 
Edward M. Prince