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

Proceeding	91224248
Party	Defendant The Dodge City Cooperative Exchange
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Submission	Answer
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Date	02/16/2016
Attachments	Applicant's Answer and Affirmative Defenses.pdf(57931 bytes)

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

IN THE MATTER OF APPLICATION SERIAL NO. 86/395,766

AUGUSTA NATIONAL, INC.)	OPPOSITION NO.: 91224248
)	
)	
Opposer,)	
v.)	
)	
THE DODGE CITY COOPERATIVE)	
EXCHANGE)	
)	
Applicant.)	

APPLICANT'S ANSWER AND AFFIRMATIVE DEFENSES

The Dodge City Cooperative Exchange ("Applicant"), in answer to Opposer's Notice of Opposition, states as follows:

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

2. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 2 of the Notice of Opposition and, therefore, denies the same.

3. Applicant denies the allegations set forth in paragraph 3 of the Notice of Opposition.

4. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 4 of the Notice of Opposition and, therefore, denies the same.

5. Applicant denies the allegations set forth in paragraph 5 of the Notice of Opposition.

6. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 6 of the Notice of Opposition and, therefore, denies

the same.

7. Applicant denies the allegations set forth in paragraph 7 of the Notice of Opposition.

8. Applicant admits it filed an application on September 16, 2014 seeking registration of the mark "AUGUSTA GREEN" for use on fertilizers, which application was assigned Serial No. 86/395,766, but denies the remaining allegations set forth in paragraph 8 of the Notice of Opposition.

9. Applicant denies the allegations set forth in paragraph 9 of the Notice of Opposition.

10. Applicant admits the allegations set forth in paragraph 10 of the Notice of Opposition.

11. Applicant denies the allegations set forth in paragraph 11 of the Notice of Opposition.

12. Applicant denies the allegations set forth in paragraph 12 of the Notice of Opposition.

13. Applicant denies the allegations set forth in paragraph 13 of the Notice of Opposition.

14. Applicant denies the allegations set forth in paragraph 14 of the Notice of Opposition.

15. Applicant denies the allegations set forth in paragraph 15 of the Notice of Opposition.

AFFIRMATIVE DEFENSES

16. Opposer's Notice of Opposition fails to state a claim upon which relief can be granted.

17. Applicant's mark is sufficiently distinct from Opposer's marks to avoid confusion, deception or mistake as to the source or sponsorship or association of Applicant's goods.

18. Applicant's mark, when used in connection with Applicant's goods, is not likely to

cause confusion, or to cause mistake, or to deceive as to the affiliation, connection or association of Applicant with the marks allegedly owned by Opposer.

19. Opposer's Notice of Opposition is barred, in whole or in part, by the doctrines of estoppel, acquiescence, and waiver.

20. Opposer's Notice of Opposition fails to state any basis under the Lanham Act as some, if not all, of Opposer's trademark registrations upon which the opposition is based are invalid.

21. Applicant generally denies that Opposer would be damaged by Applicant's registration of U.S. Serial Number 86/395,766 for AUGUSTA GREEN.

WHEREFORE, Applicant prays that:

- A. The Board find that there is no basis in fact to support the Opposition of Opposer;
- C. The Board dismiss this Opposition, with prejudice; and
- D. The Board grant such other and further relief as may be appropriate.

Dated this 16th day of February, 2016.

By:

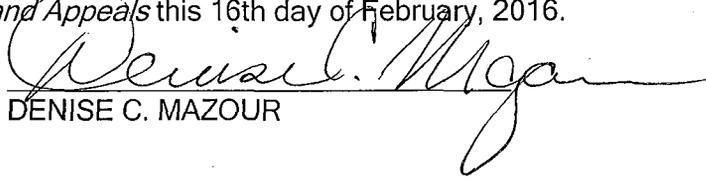


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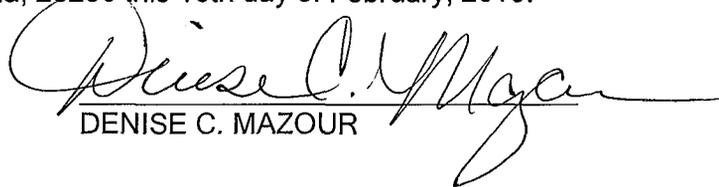
CERTIFICATION UNDER 37 C.F.R. § 1.8

I hereby certify that APPLICANT'S ANSWER AND AFFIRMATIVE DEFENSES is being filed electronically with the United States Patent and Trademark Office utilizing the *Electronic System for Trademark Trial and Appeals* this 16th day of February, 2016.


DENISE C. MAZOUR

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and complete copy of the above and foregoing APPLICANT'S ANSWER AND AFFIRMATIVE DEFENSES has been served on by electronic transmission (e.g., email) to rick.mcdermott@alston.com, sam.merritt@alston.com and by mailing said copy on February 16, 2016, via First Class Mail, postage prepaid to Richard M. McDermott and Samuel C. Merritt, Alston & Bird LLP, 101 S. Tryon Street, Suite 4000, Charlotte, North Carolina, 28280 this 16th day of February, 2016.


DENISE C. MAZOUR