

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

In the Matter of Registration No. 1508729 "MASTERGREEN", Registered October 18, 1988.

SYNGENTA CROP PROTECTION, INC.)
)
 Petitioner,)
)
 v.)
)
 PURSELL INDUSTRIES, INC.)
)
 Registrant.)



06-21-2004
U.S. Patent & TMO/TM Mail Rcpt Dt. #78

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CANCELLATION PETITION

Syngenta Crop Protection, Inc., having its principal office and place of business at 410 Swing Rd., Greensboro, N.C. 27419 (hereinafter referred to as "Petitioner"), believes that it will be damaged by continued registration of the trademark "MASTERGREEN", (hereinafter "the Trademark") shown in Registration No. 1508729, filed May 28, 1988, for the goods set forth therein, in International Class 005, and hereby seeks to cancel same.

As grounds of petition, it is averred that:

1. Pursell Industries, Inc. (hereinafter referred to as "Registrant") is not now entitled to continued registration, as a trademark, of the trademark MASTERGREEN for which it has obtained a registration in the Registration No. 1508729, registered on October 18, 1988, for the goods set forth therein, namely fertilizers.

2. Registrant is not now entitled to the use of "MASTERGREEN" as a trademark, the mark for which it obtained registration on October 18, 1988, due to lack of current and recent use as well as a lack of intention to use in the near future.

3. Registrant's product is no longer sold, thus, Registrant does not and cannot market a fertilizer product bearing the Trademark.

4. Continued registration of the trademark is misleading and creates the false impression to consumers that it has exclusive rights to use the mark and further offers for sale to consumers a product bearing the Trademark.

5. Petitioner intends to market a fungicide and crop protection product under its "GREENMASTER" mark, (Application Serial No. 78/283,122).

6. Petitioner may be harmed by confusion or mistake by and deception of consumers caused by the creation of the erroneous impression that Petitioner's goods originate with or come from Registrant.

7. Registrant's continued claim of ownership of the Trademark described above is without permission of Petitioner.

8. Registrant has no right to continued registration of the Trademark as to exclude any use of its mark or variation thereof by Petitioner.

9. Continued registration of the Trademark will lead the public to conclude, incorrectly, that Registrant has the right to exclusive use of the Trademark in conjunction with the sale of fertilizers or other crop protection products, all to the damage of Petitioner and the public. Accordingly, any such registration is prohibited by 15 U.S.C. § 1052 et seq.

WHEREFORE, Petitioner prays that said registration of the Trademark in Registration No. 1508729 be removed and stricken from the Registry of Trademarks at the U.S. Patent and Trademark Office.

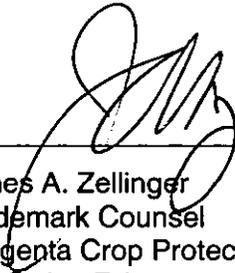
Petitioner submits this Cancellation in triplicate with the requisite \$300 filing fee.

Petitioner hereby constitutes and appoints, James A. Zellinger, a member of the Bar of the States of North Carolina and New York with an office at 410 Swing Rd., Greensboro, N.C., attorney for and on behalf of Petitioner in the above-styled and entitled Cancellation, to prosecute said Cancellation, to transact all business with the Patent and Trademark Office and in the United States courts in connection with said Cancellation, and to sign its name to all

papers which may hereafter be filed in connection with said Cancellation and to receive all official communications relating to the same.

Please send all communications to James A. Zellinger, Telephone Number 336-632-7835.

By: _____


James A. Zellinger
Trademark Counsel
Syngenta Crop Protection, Inc.
410 Swing Rd.
Greensboro, N.C.

Date:

June 17, 2004