


TTAB


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04-19-2004
U.S. Patent & TMO/TM Mail Rcpt Dt. #78

8 Express Mail Certificate

9 I hereby certify that the correspondence listed below is being deposited
10 with the United States Postal Service "Express Mail Post Office to
11 Addressee" service under 37 C.F.R. 1.10 label number EV420171005US
12 in an envelope addressed to: BOX TTAB, NO FEE, Commissioner for
Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3514, on
13 April 19, 2004.

13 Signed: 
14 Gable A. Alfano

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

17 * * *

18 BIAGRO WESTERN SALES, INC., a)
California corporation,)
19)
20 Plaintiff,)
21 v.)
22 PLANT FOOD SYSTEMS, INC., A Florida)
corporation,)
23 Defendant.)
24)
25)

Opposition No. 91158827

**WITHDRAWAL OF OPPOSITION TO
REGISTRATION [TBMP 6.101]**

Serial No. 78/231,301
Filing Date: March 28, 2003
Mark: K-PHITE

1 Plaintiff/Opposer Biagro Western Sales, Inc., a California corporation located and doing
2 business at 35801 Road 132, Visalia, California 93292 ("Biagro"), hereby withdraws its
3 opposition to registration of the mark shown in Serial No. 78/231,301 (K-PHITE) pursuant to
4 TBMP 6.101.

5 Description of defendant's/applicant's Application:

6 Filed on March 28, 2003.
7 Published for opposition on November 12, 2003.
8 Mark: K-PHITE in class 005 for fungicide for agricultural use.

9 This withdrawal of opposition has been served upon defendant/applicant as set forth in
10 the proof of service attached hereto.

11 Dated: April 9, 2004

Respectfully Submitted,
KIMBLE, MacMICHAEL & UPTON
A Professional Corporation

13 By 
14 MARK D. MILLER

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23 10022.08.withdrawal of opposition.3
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1 PROOF OF SERVICE

2
3 STATE OF CALIFORNIA)
4 COUNTY OF FRESNO) ss.

5 I am a citizen of the United States and a resident of the county aforesaid; I am over the
6 age of eighteen years and not a party to the within above-entitled action; my business address is 5260
7 North Palm, Suite 221, Fresno, California 93704.

8 On April 19, 2004, I served the within document described as WITHDRAWAL OF
9 OPPOSITION TO REGISTRATION [TBMP 6.101] on the interested parties in said action by placing
10 a true copy thereof, enclosed in a sealed envelope addressed as follows:

11 Mr. Ralph Chabot, Esq.
12 Chabot & Associates
13 2310 East Ponderosa Dr., Suite 4
14 Camarillo, CA 93010-4747
15 Facsimile (805) 388-5596

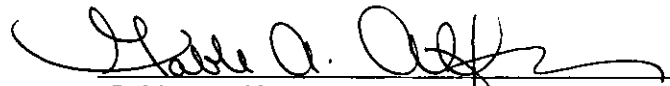
16 Richard E. Mitchell, Esq.
17 Gray Robinson, P.A.
18 301 E. Pine Street, Ste. 1400
19 Orlando, FL 32801
20 Facsimile (407) 244-5690

21 — (Overnight Mail Service) By causing the document(s) listed above to be picked-up by an
22 overnight delivery service company for delivery to the addressee(s) on the next business day.

23 XX (Service By Mail) I caused such envelope, with postage thereon fully prepaid, to be placed for
24 collection and mailing in the U.S. Postal Service following ordinary business practices. I am
25 readily familiar with the said business' practice for collection and processing of correspondence
26 for mailing, and said correspondence was deposited with the U.S. Postal Service the same day in
27 the ordinary course of business.

28 — (Via Facsimile) By transmitting via facsimile the document(s) listed above to the fax number(s)
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facsimile machine at (559) 435-1500, a copy of which is attached to this declaration.

I declare under penalty of perjury under the laws of the State of California that the
foregoing is true and correct and that I am employed in the office of a member of the bar of this court at
whose direction the service was made. Executed on April 19, 2004, at Fresno, California.


Gable A. Alfano