

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

GENERAL HYDROPONICS, INC.

Opposer,

v.

MAKHTESHIM CHEMICAL WORKS, LTD.

Applicant.

Opposition No.  
91163242

Application Serial No. 76/319,561  
on DIAMOND

**OPPOSER'S FIRST REQUESTS FOR ADMISSIONS TO APPLICANT**

Opposer General Hydroponics, Inc. requests, pursuant to 37 C.F.R. Section 2.120 and Rule 36 of the Federal Rules of Civil Procedure that applicant Makhteshim Chemical Works, Ltd. admit or deny the following facts within thirty (30) days:



07-01-2005

U.S. Patent & TMO/TM Mail Rcpt Dt. #74

**REQUEST NO. 1**

Agricultural fungicides, insecticides and herbicides are agricultural chemicals used to treat plants.

**REQUEST NO. 2**

Humate acid extracts for promoting plant growth are agricultural chemicals used to treat plants.

**REQUEST NO. 3**

By treating plants with agricultural fungicides, insecticides and herbicides, plant growth is promoted.

**REQUEST NO. 4**

"Humate acid extracts for promoting plant growth" are substantially identical to "agricultural fungicides, insecticides and herbicides."

**REQUEST NO. 5**

"Humate acid extracts for promoting plant growth" are rendered to substantially the same class of potential purchasers as "agricultural fungicides, insecticides and herbicides."

**REQUEST NO. 6**

"Humate acid extracts for promoting plant growth" are advertised in substantially the same periodicals as are "agricultural fungicides, insecticides and herbicides."

**REQUEST NO. 7**

"Humate acid extracts for promoting plant growth" are advertised in substantially the same media as are "agricultural fungicides, insecticides and herbicides."

**REQUEST NO. 8**

"Humate acid extracts for promoting plant growth" are rendered in substantially the same channels of trade as are "agricultural fungicides, insecticides and herbicides."

**REQUEST NO. 9**

"Humate acid extracts for promoting plant growth" and "agricultural fungicides, insecticides and herbicides" are marketed to overlapping classes of potential purchasers.

**REQUEST NO. 10**

"Humate acid extracts for promoting plant growth" are advertised in some of the same periodicals as are the services of "agricultural fungicides, insecticides and herbicides."

**REQUEST NO. 11**

"Humate acid extracts for promoting plant growth" are advertised in some of the same printed and broadcast media as are the services of "agricultural fungicides, insecticides and herbicides."

**REQUEST NO. 12**

"Humate acid extracts for promoting plant growth" are marketed in channels of trade which overlap those for the services of "agricultural fungicides, insecticides and herbicides."

**REQUEST NO. 13**

Applicant's DIAMOND mark has no reputation or goodwill in the United States.

**REQUEST NO. 14**

Applicant was aware of opposer's DIAMOND BLACK and DIAMOND NECTAR marks prior to the filing of Application Serial No. 76/319,561.

**REQUEST NO. 15**

Applicant was aware of opposer's use of opposer's DIAMOND BLACK and DIAMOND NECTAR marks prior to the filing of Application Serial No. 76/319,561.

**REQUEST NO. 16**

Applicant was aware of opposer's DIAMOND BLACK and DIAMOND NECTAR humate acid extracts prior to the filing date of Application Serial No. 76/319,561.

Respectfully submitted,

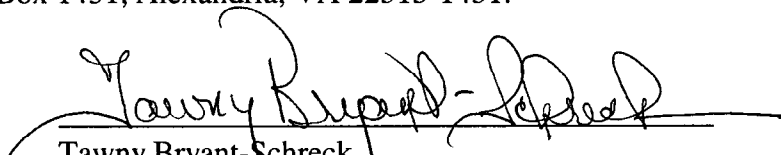


Date: June 28, 2005

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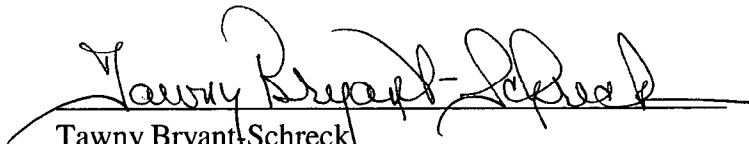
**CERTIFICATE OF MAILING**

I, Tawny Bryant-Schreck, hereby certify that the original and one copy of **OPPOSER'S FIRST REQUESTS FOR ADMISSIONS TO APPLICANT** are being deposited with the United States Postal Service on JUNE 28, 2005, postage prepaid, in an envelope addressed to Commissioner for Trademarks, Box TTAB NO FEE, P.O. Box 1451, Alexandria, VA 22313-1451.

  
Tawny Bryant-Schreck

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing **OPPOSER'S FIRST REQUESTS FOR ADMISSIONS TO APPLICANT** is being served on Counsel for Applicant, Ronni S. Jillions, Browdy and Neimark, P.L.L.C., 624 Ninth Street, N.W., Suite 300, Washington, DC 20001-5303 by First Class Mail, postage prepaid, this 28<sup>TH</sup> day of JUNE, 2005.

  
Tawny Bryant-Schreck