

**PATTERSON, THUENTE, SKAAR & CHRISTENSEN, P.A.**

*Patent, Trademark, Copyright, Internet & Related Causes*

**TTAB**

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November 23, 2005

VIA U.S. EXPRESS MAIL

Assistant Commissioner for Trademarks  
Box TTAB  
P.O. Box 1451  
Alexandria, VA 22313-1451

Re: In the Matter of Opposition No. 911669596  
Our Ref.: 3595.165-OPP-01

Dear Sir:

Enclosed please find the original and two copies of Answer to Notice of Opposition in the above-referenced matter. By copy of this letter, we are serving a copy on Gene S. Winter, Esq.

Thank you for your assistance.

Sincerely,



Donald W. Niles

DWN/ch  
Enclosures

CC: Gene S. Winter, Esq.  
St. Onge Steward Johnston & Reens LLC  
986 Bedford Street  
Stamford, CT 06905



11-23-2005

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #01

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

<b>Growth Products, Ltd.</b>	)	
	)	
<b>Opposer,</b>	)	<b>Opposition No. 911669596</b>
	)	
<b>v.</b>	)	
	)	
<b>Cargill, Inc.</b>	)	
<b>and</b>	)	
<b>Its Successor-in-Interest,</b>	)	
<b>The Mosaic Company,</b>	)	
	)	
<b>Applicant.</b>	)	

**ANSWER TO NOTICE OF OPPOSITION**

For its Answer to the Opposition filed by Growth Products, Ltd., Applicant Cargill Inc. and its Successor-In-Interest The Mosaic Company admit, deny and allege as follows. Each and every allegation contained in the Notice of Opposition, to the extent not specifically admitted, or qualified herein, is expressly denied:

1. Applicant has insufficient information to admit or deny the allegations of paragraph 1 of the Notice of Opposition and therefore denies the same.
2. With respect to paragraph 2 of the Notice of Opposition, admit Opposer is identified as the owner of U.S. Trademark Registration No. 1,806,946 in the TESS and TARR printouts.
3. With respect to paragraph 3 of the Notice of Opposition, admit the Opposer's Registration of ESSENTIAL is incontestable under the limited terms of sections 15 and 33(b) of the Lanham Act, but denies the remaining averments.
4. Admit paragraph 4 of the Notice of Opposition.

5. Deny paragraph 5 of the Notice of Opposition.
6. Deny paragraph 6 of the Notice of Opposition.

**AFFIRMATIVE DEFENSES**

7. Opposer's Notice of Opposition should be denied based on laches, estoppel and/or failure to state a claim upon which relief can be granted.
8. The mark MICROESSENTIALS is not sufficiently similar to ESSENTIAL to cause a likelihood of confusion.
9. Opposer's products sold under the mark ESSENTIAL are dissimilar to Applicant's products, sold to different customers and through different channels of distribution.
10. Opposer's sale of products under the mark ESSENTIAL has only been with other marks, including Opposer's corporate name "Growth Products" and the terms "Organic" and or "Plus," none of which are referenced in Applicant's application for MICROESSENTIALS or on any of Applicant's products or packaging.

WHEREFORE, Applicant requests an order providing that:

1. The Opposition be dismissed with prejudice; and
2. Applicant be awarded such other and further relief as may be just and proper.

Respectfully submitted,

PATTERSON, THUENTE, SKAAR  
& CHRISTENSEN, P.A.

Dated: November 23, 2005

By:  \_\_\_\_\_

Donald W. Niles

Michael A. Bondi

Kyle T. Peterson

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Minneapolis, MN 55402

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**Attorneys for Applicant**

**CERTIFICATE OF EXPRESS MAIL**

"Express Mail" meaning label number EV 611980693US Date of Deposit: November 23, 2005, I hereby certify that this paper is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. § 1.10 on the date indicated above and is addressed to the Assistant Commissioner for Trademarks, Box TTAB, P.O. Box 1451, Arlington, VA 22213-1451

Doris Whitcomb  
Name of Person Making Deposit

*Doris Whitcomb*  
Signature

**CERTIFICATE OF SERVICE**

Cynthia Hefferan certifies that on the 23rd day of November, 2005, s/he served the attached Answer to Notice of Opposition in the entitled action, by placing a true and correct copy thereof in a sealed package, first class postage prepaid, and by depositing the same with the United States Postage Service, properly addressed as follows:

Gene S. Winter, Esq.  
St. Onge Steward Johnston & Reens LLC  
986 Bedford Street  
Stamford, CT 06905



*Cynthia Hefferan*

Subscribed and sworn to before me  
this 23 day of November 2005.

*Amy Salmela*  
Notary Public