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

Proceeding	91170572
Party	Defendant Ashland Inc. Ashland Inc. 50 E. RiverCenter Blvd. Covington, KY 41012
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Submission	Answer
Filer's Name	/John G. Haraldson/
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Date	07/31/2006
Attachments	E001.PDF ( 3 pages )(258656 bytes )

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

Growmark, Inc.

Opposer,

Opposition No. 91170572  
Serial No. 78/553,156

v.

Ashland Licensing and Intellectual Property LLC

Applicant,

**ANSWER TO NOTICE OF OPPOSITION**

Pursuant to Federal Rule of Civil Procedure 8(b) and Trademark Rule 2.106, Applicant Ashland Licensing and Intellectual Property LLC answers the Notice of Opposition as follows. The paragraph numbers below correspond to each of the sentences in the Notice of Opposition. Applicant reserves the right to amend or supplement its Answer as appropriate.

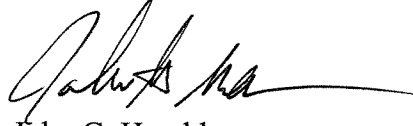
1. Applicant admits that Opposer is a regional agricultural cooperative, which markets many of its goods and services under various “FS” marks.
2. Applicant admits that Opposer has filed FS marks which include, *inter alia*, the mark “FS” (and design), Registration No. 2, 661,646; “FS” (and design), Registration No. 843,081; and “FS VALVE-SAVE”, Registration No. 1,467,909.
3. Applicant is without knowledge or information sufficient to form a belief that Opposer’s trademarks have acquired a high degree of distinctiveness symbolizing an invaluable goodwill owned by Opposer through long and substantial use, sales, and advertising of and under its FS trademarks, and since long prior to the filing date of the Applicant’s FS Application.

4. Applicant is without knowledge or information to form a belief that Opposer's FS trademarks have become well known and that the consuming public associates the FS trademarks with Opposer.
5. Applicant denies that the use by applicant of the FS trademark described in of Application Serial Number 78/553,156 for the goods listed in that application is likely to cause confusion, deception, or mistake as to the source of origin, sponsorship or approval of Applicant's products. Applicant also denies that it and purchasers or others are likely to believe that Applicant's products are Opposer's products, or the products of a company connected with, or related to, Opposer.
6. Applicant denies that its registration of the FS Mark identified in Application Serial Number 787/553,156 would be damaging to Opposer.
7. Applicant asserts its "FS", design mark is very different from Opposer's and the very famous VALVOLINE® house mark is prominently included in the design mark applied for.
8. Applicant asserts that Applicant's goods are not related or marketed in such a way that they would be encountered – side by side - by the same persons in situations that would create the incorrect assumption that they originated from the same source. *Local Trademark, Inc., v. Handy Boys, Inc.*, 16 USPQ2d 1156 (TTAB 1990).
9. Applicant asserts that Opposer's "FS" does not appear to stand for anything specific and Applicant's "FS" stands for "fuel system" as clearly indicated by the mark as a whole. Each mark should be looked at "in whole" and not by their various parts.

Therefore, Applicant No. 78/553,156 should be entitled to proceed to registration. Wherefore, Applicant requests that the Notice of Opposition be rejected, and judgment be entered in favor of Applicant.

Dated: 7/31/06

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John G. Haraldson", with a long horizontal flourish extending to the right.

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