

ESTTA Tracking number: **ESTTA118354**

Filing date: **01/08/2007**

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

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	Syngenta Crop Protection, Inc.		
Entity	Corporation	Citizenship	Delaware
Address	410 Swing Road Greensboro, NC 27409 UNITED STATES		

Attorney information	James A. Zellinger Syngenta Crop Protection, Inc. 410 Swing Road Greensboro, NC 27409 UNITED STATES susan.keefer@syngenta.com Phone:336-632-7835		
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### Applicant Information

Application No	76570365	Publication date	12/26/2006
Opposition Filing Date	01/08/2007	Opposition Period Ends	01/25/2007
Applicant	FARMSAVER.COM LLC 911 Western Avenue Suite 206 Seattle, WA 98104 UNITED STATES		

### Goods/Services Affected by Opposition

Class 005. All goods and services in the class are opposed, namely: agricultural pesticides
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Attachments	ABBA opposition.pdf ( 3 pages )(101577 bytes )
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Signature	/James A. Zellinger/
Name	James A. Zellinger
Date	01/08/2007

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

In the Matter of Application Serial No. 76/570365 "ABBA", Filed January 12, 2004

SYNGENTA CROP PROTECTION, INC.	)	
	)	
Opposer,	)	
	)	
v.	)	
	)	<u>NOTICE OF OPPOSITION</u>
FARMSAVER.COM, L.L.C.	)	
Applicant.	)	
	)	

NOTICE OF OPPOSITION

Syngenta Crop Protection, Inc., having its principal office and place of business at 410 Swing Rd., Greensboro, N.C. 27409 (hereinafter referred to as "Opposer"), believes that it will be damaged by registration of the trademark "ABBA", shown in Application Serial No.76/570365, filed January 12, 2004, for the goods set forth therein, in International Class 005, and hereby opposes same.

As grounds of opposition, it is averred that:

1. Farmsaver.com, L.L.C. (hereinafter referred to as "Applicant") is not now and never was entitled to register as a trademark the trademark for which it seeks registration in the Application Serial No. 76/570365, filed January 12, 2004, for the goods set forth therein, namely pesticides.

2. Applicant is not now and never was entitled to the use of "ABBA" as a trademark, the mark for which it seeks registration in the Application filed on January 12, 2004.

3. Since January 12, 2004, prior to Applicant's filing of said Application, Opposer and other third parties have been and are now using many similar terms including, but not limited to, "ABA" for Abamectin, a generic crop protection product, in connection with the advertising and offering for sale of herbicides in interstate commerce. "Abba" and "ABA" are phonetically identical and cannot be audibly distinguished.

4. Applicant's mark is misleading and creates the false impression to consumers that it owns the mark "ABBA", "ABA", and all other abbreviations of Abamectin or similar sounding terms.

5. The trademark Applicant seeks to register so obviously resembles third party and Opposer's terms and advertising that, when applied to the goods of Applicant, confusion or mistake by and deception of consumers will clearly result, caused by the creation of the erroneous impression that Applicant's goods originate with or come from the same source as Opposer's goods, or are endorsed by, or are sponsored by, or are connected in some way with Opposer as well as the goods and sponsorship of other third parties.

6. Applicant's adoption and alleged use of the trademark described above is without license or permission of Opposer.

7. Applicant's trademark is sufficiently similar to Opposer's use of ABA, and is intended for use on the identical products of Opposer.

8. Applicant has no right to adoption of the mark as to exclude any use of the proposed mark by third parties as it is a common abbreviation of Abamectin.

9. Registration by Applicant of the trademark will lead the public to conclude, incorrectly, that Applicant has a superior right to use that mark in conjunction with the sale of pesticides and other products, all to the damage of Opposer and the public. Accordingly, any such registration is prohibited by 15 U.S.C. § 1052.

10. Confusion will further occur by Applicant's use of the mark on or with products that do not contain Abamectin causing damage and/or injury to consumers and their property.

WHEREFORE, Plaintiff, prays that said Application be rejected, and that registration of the trademark in Application No. 76/570365 to Applicant be refused and denied.

Opposer submits this Notice of Opposition in triplicate with the requisite \$300.00 filing fee.

Opposer 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 Opposer in the above-styled and entitled opposition, to prosecute said opposition, to transact all business with the Patent and Trademark Office and in the United States courts in connection with said opposition, and to sign its name to all papers which may hereafter be filed in connection with said opposition 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: January 4, 2007