

ESTTA Tracking number: **ESTTA171722**

Filing date: **10/30/2007**

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	Nova Chemicals Inc.
Granted to Date of previous extension	12/05/2007
Address	1550 Coraopolis Heights Road Moon Township, PA 15108 UNITED STATES

Attorney information	Sabrina C. Stavish Sheridan Ross P.C. 1560 Broadway, Suite 1200 Denver, CO 80202 UNITED STATES sstavish@sheridanross.com, ktaylor@sheridanross.com
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**Applicant Information**

Application No	77073637	Publication date	08/07/2007
Opposition Filing Date	10/30/2007	Opposition Period Ends	12/05/2007
Applicant	NU SCIENCE TRADING, LLC 123 WEST FIRST STREET, SUITE 675 CASPER, WY 82602 UNITED STATES		

**Goods/Services Affected by Opposition**

<p>Class 005. First Use: 2005/06/01 First Use In Commerce: 2006/01/30 All goods and services in the class are opposed, namely: Animal feed additive for use as a nutritional supplement for medical purposes; Animal feed supplements; Bee pollen for use as a dietary food supplement; Biscuits, bread, bread rolls, cakes, cereal products, confectionery, crackers, noodles, fish sauce, relish, sauces, cereal-based snack-foods and prepared dietary items that are gluten-free to accommodate special medical and health conditions; Calcium supplements; Dietary and nutritional supplements; Dietary drink mix for use as a meal replacement; Dietary fiber as an additive for food products; Dietary food supplements; Dietary supplemental drinks; Dietary supplements; Dietary supplements for animals; Dietary supplements for human consumption; Feed supplements for animals, namely dogs; Fish, pickles, preserved olives and dietary foods and food-items that are gluten-free to accommodate special medical and health conditions; Food supplements; Food supplements, namely, anti-oxidants; Ground flaxseed fiber for use as a dietary supplement; Herbal supplements; Homeopathic supplements; Lecithin for use as a dietary supplement; Meal replacement and dietary supplement drink mixes; Mineral nutritional supplements; Mineral supplements; Nutraceuticals for use as a dietary supplement; Nutritional additives for use in foods and dietary supplements for human consumption; Nutritional supplements; Nutritional supplements in lotion form sold as a component of nutritional skin care products; Powdered nutritional supplement drink mix; Vitamin and mineral supplements; Vitamin supplement in tablet form for use in making an</p>
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effervescent beverage when added to water; Vitamin supplements; Wheat for use as a dietary supplement
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## Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

## Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	1387908	Application Date	01/20/1984
Registration Date	04/01/1986	Foreign Priority Date	NONE
Word Mark	ARCEL		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 001. First use: First Use: 1983/10/11 First Use In Commerce: 1983/10/11 MOLDABLE POLYOLEFIN COPOLYMERS SOLD FOR THE PURPOSE OF MANUFACTURING CELLULAR FOAM PACKAGING AND DUNNAGE TRAYS USED IN CONNECTION WITH THE MANUFACTURE OF AUTOMOBILES AND MARINE PARTS AND COMPONENTS THEREFOR AND IN THE MANUFACTURE OF CELLULAR FOAM FLOTATION DEVICES INCLUDING SURF BOARDS		

Attachments	Notice of Opposition.pdf ( 4 pages )(327491 bytes )
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Signature	/Kathleen S. Taylor/
Name	Kathleen S. Taylor
Date	10/30/2007

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

In the Matter of Trademark Application Serial No. 77/073,637  
For the Mark "ARCEL"  
Published in the Official Gazette: August 7, 2007

NOVA CHEMICALS, INC.	)	
	)	Opposition No.
Opposer,	)	
v.	)	
	)	
NU SCIENCE TRADING, LLC	)	
	)	
Applicant.	)	

NOTICE OF OPPOSITION

Opposer, Nova Chemicals, Inc., a company organized and existing under the laws of Delaware, and having a place of business at 1550 Coraopolis Heights Road, Moon Township, Pennsylvania 15108, believes that it will be damaged by registration of the "ARCEL" mark for animal feed additive for use as a nutritional supplement for medical purposes; animal feed supplements; bee pollen for use as a dietary food supplement; biscuits, bread, bread rolls, cakes, cereal products, confectionery, crackers, noodles, fish sauce, relish, sauces, cereal-based snack-foods and prepared dietary items that are gluten-free to accommodate special medical and health conditions; calcium supplements; dietary and nutritional supplements; dietary drink mix for use as a meal replacement; dietary fiber as an additive for food products; dietary food supplements; dietary supplemental drinks; dietary supplements; dietary supplements for animals; dietary supplements for human consumption; feed supplements for animals, namely dogs; fish, pickles, preserved olives and dietary foods and food-items that are gluten-free to accommodate special medical and health conditions; food supplements; food supplements, namely, anti-oxidants;

ground flaxseed fiber for use as a dietary supplement; herbal supplements; homeopathic supplements; lecithin for use as a dietary supplement; meal replacement and dietary supplement drink mixes; mineral nutritional supplements; mineral supplements; nutraceuticals for use as a dietary supplement; nutritional additives for use in foods and dietary supplements for human consumption; nutritional supplements; nutritional supplements in lotion form sold as a component of nutritional skin care products; powered nutritional supplement drink mix; vitamin and mineral supplements; vitamin supplement in tablet form for use in making an effervescent beverage when added to water; vitamin supplements; wheat for use as a dietary supplement in International Class 5 as shown in U.S. Application Serial No. 77/073,637, and hereby opposes the same.

As grounds for this Opposition, Opposer alleges:

1. Opposer's filing of this Notice of Opposition is timely. Applicant's U.S. Application Serial No. 77/073,637 for "ARCEL" published for opposition in the August 7, 2007 Trademark Office Official Gazette. Extensions of time have been filed extending the deadline to oppose until December 5, 2007.

2. Opposer is the owner of incontestible U.S. Registration No. 1,387,908 for the mark "ARCEL" for use in connection with moldable polyolefin copolymers sold for the purpose of manufacturing cellular foam packaging and dunnage trays used in connection with the manufacture of automobiles and marine parts and components therefor and in the manufacture of cellular foam flotation devices including surf boards in International Class 1. A Section 8 and Section 15 Declaration was accepted and acknowledged for this trademark registration on September 25, 1991. Opposer is also the owner of U.S. Registration No. 2,881,627 for "ARCEL" for semi-processed moldable foam resins in pellets or beads for use in the manufacture of

molded plastic articles in International Class 17. TARR documentation regarding these two registrations is attached hereto as Exhibit 1.

3. Opposer has used the mark "ARCEL" continuously since 1983 in connection with moldable products for packaging applications for many different products. Such products may include products of the type sold by Applicant.

4. Opposer has devoted substantial time, money and effort in establishing and maintaining a high standard of quality for all products sold under and in connection with the "ARCEL" mark. As a consequence, Opposer's "ARCEL" mark has become widely and favorably known to the relevant public. By virtue of the public's recognition of Opposer's "ARCEL" mark, Opposer has developed substantial goodwill in the mark.

5. Upon information and belief, Nu Science Trading, LLC is the owner of U.S. Trademark Application Serial No. 77/073,637 for the mark "ARCEL" filed on an actual use basis on December 29, 2006. Nu Science Trading, LLC claims use of the mark "ARCEL" since June 1, 2005 and use in commerce since January 30, 2006.

6. Upon information and belief, as a result of the public's association of the "ARCEL" mark with Opposer, Applicant's use and registration of the mark "ARCEL" is likely to cause confusion, mistake or deception as to the source, origin or affiliation of Applicant's goods.

7. If U.S. Trademark Application Serial No. 77/073,637 for "ARCEL" is permitted to issue, despite this likelihood of confusion, Opposer's right to exclusive use of its "ARCEL" mark will be impaired and Opposer will be damaged.

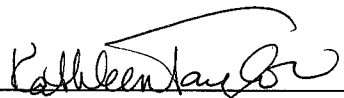
8. Opposer's "ARCEL" mark is a famous mark under 15 U.S.C. § 1125(c) for its goods.

9. Applicant's registration and use of "ARCEL" will cause dilution of the distinctive quality of Opposer's famous "ARCEL" mark under 15 U.S.C. § 1125(c).

WHEREFORE, Opposer prays that this Opposition be sustained and that the application for registration of U.S. Trademark Application Serial No. 77/073,637 for "ARCEL" be denied and refused. This Notice of Opposition is being filed electronically; please debit any additional fees from our Deposit Account No. 19-1970.

Respectfully submitted,

SHERIDAN ROSS P.C.

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

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Date: 10/30/07