

ESTTA Tracking number: **ESTTA291668**

Filing date: **06/24/2009**

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	Valent BioSciences Corporation
Granted to Date of previous extension	06/24/2009
Address	870 Technology Way Libertyville, IL 60048 UNITED STATES
Attorney information	Raymond I. Geraldson, Jr. Pattishall, McAuliffe, Newbury, et al. 311 S. Wacker Dr., Suite 5000 Chicago, IL 60606 UNITED STATES RIG@pattishall.com, TDT@pattishall.com

Applicant Information

Application No	77588776	Publication date	02/24/2009
Opposition Filing Date	06/24/2009	Opposition Period Ends	06/24/2009
International Registration No.	NONE	International Registration Date	NONE
Applicant	NTS Research & Incorporation #112-16 Fawcett Road Coquitlam, V3K6X9 CANADA		

Goods/Services Affected by Opposition

Class 005. All goods and services in the class are opposed, namely: Insecticides for agricultural use
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	1572857	Application Date	05/11/1989
Registration Date	12/26/1989	Foreign Priority Date	NONE
Word Mark	GNATROL		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 005. First use: First Use: 1989/04/25 First Use In Commerce: 1989/04/25 HORTICULTURAL INSECTICIDE/LARVICIDE

Attachments	77588776 - bionatrol.pdf (3 pages)(74496 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/TDT/
Name	Teresa D. Tambolas
Date	06/24/2009

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

In re Application Serial No.77/588,776 : BIONATROL

Valent BioSciences Corporation,)	
)	
Opposer,)	
)	
v.)	Opposition No. _____
)	
NTS Research & Inc.,)	
)	
Applicant.)	

NOTICE OF OPPOSITION

Valent BioSciences Corporation, an Illinois corporation having a principal place of business at 870 Technology Way, Libertyville, Illinois 60048, believes it will be damaged by registration of the mark shown in App. Ser. No. 77/588,776, and opposes same. The grounds for this opposition are as follows:

1. For many years, Valent BioSciences Corporation and its predecessor (hereinafter "VBC") have distributed, advertised and sold insecticides under the mark GNATROL.
2. VBC owns a valid, subsisting, and incontestable registration for the mark GNATROL for "horticultural insecticide/larvicide" (U.S. Reg. No. 1,572,857).
3. VBC has enjoyed substantial sales of GNATROL insecticide in the United States, and has spent substantial sums on advertising and promoting its GNATROL mark throughout the United States.
4. By virtue of these sales and the success of its advertising and promotional efforts, VBC now owns valuable goodwill symbolized by its GNATROL mark.
5. On August 15, 2008, Applicant filed an application under Section 44(e) of the Lanham Act to register the mark BIONATROL for "insecticides for agricultural use" (App. Ser.

No. 77/588,776), based on a Canadian registration of the mark for "insecticides and fungicides for agriculture and horticulture" (Reg. No. TMA650538). The application that matured into the Canadian registration was filed on June 28, 2004, and thus does not provide priority.

6. Upon information and belief, neither Applicant nor any predecessor or related company can claim rights in the BIONATROL mark in the United States prior to August 15, 2008.

7. Applicant's use and registration of the BIONATROL mark is likely to cause confusion, mistake, or deception with VBC and its GNATROL mark, and is likely to cause purchasers and others erroneously to believe that Applicant's goods are VBC's goods, or that Applicant or its goods are in some way connected with, sponsored, or approved by VBC.

8. Applicant's application to register the BIONATROL mark was filed without VBC's consent.

WHEREFORE, VBC prays that its opposition be sustained and registration of Application Serial No. 77/588,776 be refused.

VBC submits the requisite filing fee of \$300.00 herewith. Please address all correspondence to Raymond I. Geraldson, Jr., Pattishall, McAuliffe, Newbury, Hilliard & Geraldson LLP, 311 South Wacker Drive, Suite 5000, Chicago, Illinois 60606.

PATTISHALL, McAULIFFE, NEWBURY,
HILLIARD & GERALDSON LLP

Dated: June 24, 2009

By Teresa D. Tambolas
Raymond I. Geraldson, Jr.
Teresa D. Tambolas
311 South Wacker Drive, Suite 5000
Chicago, Illinois 60606
Telephone (312) 554-8000

Attorneys for Opposer, Valent BioSciences Corporation

CERTIFICATE OF SERVICE

I hereby certify that a copy of Valent BioSciences Corporation's **Notice of Opposition** was served upon Applicant on June 24, 2009, via first class mail, at the following address:

NTS Research & Incorporation
#112-16 Fawcett Road
Coquitlam, BC V3K6X9
Canada
Attn: Brandon Choi, Director


