

ESTTA Tracking number: **ESTTA543785**

Filing date: **06/18/2013**

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	Jongkind Grond B.V.
Granted to Date of previous extension	06/19/2013
Address	Oosteinderweg 357 Aalsmeer, 1432 AX NETHERLANDS

Attorney information	James Michael Faier Faier & Faier P.C. 566 W. Adams St. Suite 600 Chicago, IL 60661 UNITED STATES jmfaier@faier.com Phone:3123829400
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**Applicant Information**

Application No	85728774	Publication date	02/19/2013
Opposition Filing Date	06/18/2013	Opposition Period Ends	06/19/2013
Applicant	Green Rain Inc. 375 N. Stephanie Street, Suite 1411 Henderson, NV 890148909 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 001. All goods and services in the class are opposed, namely: Plant nutrients
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**Applicant Information**

Application No	85728792	Publication date	03/05/2013
Opposition Filing Date	06/18/2013	Opposition Period Ends	
Applicant	Green Rain Inc. 375 N. Stephanie Street, Suite 1411 Henderson, NV 890148909 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 001. All goods and services in the class are opposed, namely: Plant nutrients
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## Applicant Information

Application No	85728756	Publication date	02/19/2013
Opposition Filing Date	06/18/2013	Opposition Period Ends	
Applicant	Green Rain Inc. 375 N. Stephanie Street, Suite 1411 Henderson, NV 890148909 UNITED STATES		

## Goods/Services Affected by Opposition

Class 001. All goods and services in the class are opposed, namely: Plant nutrients
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## Grounds for Opposition

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
Other	(1) No bona fide intent to use any of the cited marks in connection with the identified goods as of the filing date under Trademark Act Section 1(b) 15 USC Sec. 1052(b) (2) The Applicant is not the rightful owner of the registered marks cited.

## Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	4051374	Application Date	05/25/2010
Registration Date	11/08/2011	Foreign Priority Date	11/27/2009
Word Mark	GOLDLABEL		
Design Mark			
Description of Mark	The mark consists of the wording "GOLD LABEL" inside an oval design. A human silhouette with two horizontal lines appear above the wording.		
Goods/Services	Class 001. First use: Chemical preparations for use in agriculture, horticulture and forestry except fungicides, herbicides, insecticides and parasiticides; soil, namely, potting soil, soil for plant cultivation and planting soil; natural manure and artificial manure; compost; hydrogranules for plant growth; nutrients for plants		

U.S. Application/Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	GOLD LABEL SPECIAL MIX		
Goods/Services	Chemical preparations for use in agriculture, horticulture and forestry except fungicides, herbicides, insecticides and parasiticides; soil, namely, potting soil, soil for plant cultivation and planting soil; natural manure and artificial manure; compost; hydrogranules for plant growth; nutrients for plants		

U.S. Application/Registration No.	NONE	Application Date	NONE
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Registration Date	NONE
Word Mark	GREEN LABEL
Goods/Services	Chemical preparations for use in agriculture, horticulture and forestry except fungicides, herbicides, insecticides and parasiticides; soil, namely, potting soil, soil for plant cultivation and planting soil; natural manure and artificial manure; compost; hydrogranules for plant growth; nutrients for plants

Attachments	Jongkind_Grond_Opposition_Final.pdf(113805 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	/jamesmichaelfaier/
Name	James Michael Faier
Date	06/18/2013

Certificate of Mailing under 37 C.F.R. 2.197

I certify that this Notice of Opposition is being filed via the ESTTA system of the Trademark Trial and Appeal Board of the United States Patent and Trademark Office on 18 June 2013

signature: /jamesmichaelfaier/

name of person signing certificate: James Michael Faier.  
signed 18 June 2013

**In the United States Patent and Trademark Office  
Before the Trademark Trial and Appeal Board**

**Jongkind Grond BV,  
a limited liability company,**

**Opposer,**

**vs.**

**Green Rain Inc.,  
a Nevada corporation,**

**Applicant.**

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**Opposition No.** \_\_\_\_\_

**Notice of Opposition**

Opposer, Jongkind Grond B.V., a limited liability company organized and existing under the laws of the Netherlands, located and doing business as Oosteinderweg 357, NL-1432 Ax Aalsmeer, Netherlands, believes that it will be damaged by registration of the marks GOLD LABEL/GOLD LABEL NUTRIENTS, SPECIAL MIX GOLD LABEL, and GREEN LABEL / GREEN LABEL NUTRIENTS, applied for in USPTO application serial numbers 85728774, 85728792, and 85728756 and hereby opposes the same. Opposer, through its attorneys, Faier & Faier P.C. allege

as follows:

### **Description of Applicant's Applications**

1. Applicant, Green Rain Inc. (herein "Applicant" or "GREEN RAIN") is a corporation existing under the laws of the State of Nevada.
2. Green Rain has an address of 375 N. Stephanie Street, Suite 1411, Henderson, Nevada U.S.A.
3. Green Rain filed SN 85728774 for the mark GOLD LABEL / GOLD LABEL NUTRIENTS on 13 September 2012 for "plant nutrients" in International Class 001 and that application was published on 19 February 2013.
4. Green Rain claimed Section 1(b) as the basis of application SN 85728774.
5. Green Rain filed SN 85728792 for the mark SPECIAL MIX GOLD LABEL on 13 September 2012 for "plant nutrients" in International Class 001 and that application was published on 05 March 2013.
6. Green Rain claimed Section 1(b) as the basis of application SN 85728792.
7. Green Rain filed SN 85728756 for the mark GREEN LABEL / GREEN LABEL NUTRIENTS on 13 September 2012 for "plant nutrients" in International Class 001 and that application was published on 19 February 2013.
8. Green Rain claimed Section 1(b) as the basis of application SN 85728756.

### **Grounds for Opposition**

As grounds for this opposition, Opposer alleges the following:

#### **Ownership of U.S. Trademark Registration No. 4,051,374**

9. Opposer is the owner of U.S. Trademark Registration No. **4,051,374** for the mark "**GOLD**

**LABEL**" for "Chemical preparations for use in agriculture, horticulture and forestry except fungicides, herbicides, insecticides and parasiticides; soil, namely, potting soil, soil for plant cultivation and planting soil; natural manure and artificial manure; compost; hydrogranules for plant growth; nutrients for plants" in International Class 001 which was registered on the Principal Register on **08 November 2011**. The Registration claims a priority date of 27 November 2009. Said registration was based on an application filed in the U.S. Patent and Trademark Office on **25 May 2010**, which is a date prior to the date of filing of any of applicant's applications. Said registered mark of Opposer is valid and subsisting and is prima facie evidence of opposer's exclusive right to use said mark in commerce on the **goods** specified in said registration. In view of the similarity of the respective marks and the related nature of the good of the respective parties, it is alleged that each of applicant's marks so resembles opposer's registered mark, as to be likely to cause confusion, or to cause mistake or to deceive. Applicant attaches an abstract showing ownership of Registration No. 4,051,374.

**Prior Adoption and Use of Similar Mark or Trade Name**

10. Opposer, since at least as early as 23 July 2010, has been, and is now using the mark GOLD LABEL in connection with the sale of Chemical preparations for use in agriculture, horticulture and forestry except fungicides, herbicides, insecticides and parasiticides; soil, namely, potting soil, soil for plant cultivation and planting soil; natural manure and artificial manure; compost; hydrogranules for plant growth; nutrients for plants. Said use has been valid and continuous since said date of first use and has not been abandoned. Said mark of opposer is symbolic of extensive good will and consumer recognition built up by opposer through substantial amounts of time and effort in advertising and promotion. In view of the similarity of opposer's mark and applicant's marks and the similarity of the goods, it is alleged that each of applicant's mark so resembles

opposer's mark previously used in the United States, and not abandoned, as to be likely to cause confusion, or to cause mistake, or to deceive.

11. Opposer, since at least as early as 23 July 2010, has been, and is now using the mark GOLD LABEL SPECIAL MIX in connection with the sale of Chemical preparations for use in agriculture, horticulture and forestry except fungicides, herbicides, insecticides and parasiticides; soil, namely, potting soil, soil for plant cultivation and planting soil; natural manure and artificial manure; compost; hydrogranules for plant growth; nutrients for plants. Said use has been valid and continuous since said date of first use and has not been abandoned. Said mark of opposer is symbolic of extensive good will and consumer recognition built up by opposer through substantial amounts of time and effort in advertising and promotion. In view of the similarity of opposer's mark and applicant's marks and the similarity of the goods, it is alleged that each of applicant's mark so resembles opposer's mark previously used in the United States, and not abandoned, as to be likely to cause confusion, or to cause mistake, or to deceive.

**Opposition Based on Lanham Act §2(a)**

12. Opposer, since at least as early as 23 July 2010, has been, and is now operating under the designation GOLD LABEL for Chemical preparations for use in agriculture, horticulture and forestry except fungicides, herbicides, insecticides and parasiticides; soil, namely, potting soil, soil for plant cultivation and planting soil; natural manure and artificial manure; compost; hydrogranules for plant growth; nutrients for plants. Said use has been valid and continuous since said date of first use and the relevant class of the public has come to associate opposer with said designation. In view of the similarity of each of applicant's marks with opposer's designation, and

in view of the related nature of the uses thereof, it is alleged that each of applicant's marks consists of and comprises matter that may disparage and falsely suggest a connection with opposer.

13. Opposer, since at least as early as 23 July 2010, has been, and is now operating under the designation GOLD LABEL SPECIAL MIX for Chemical preparations for use in agriculture, horticulture and forestry except fungicides, herbicides, insecticides and parasiticides; soil, namely, potting soil, soil for plant cultivation and planting soil; natural manure and artificial manure; compost; hydrogranules for plant growth; nutrients for plants. Said use has been valid and continuous since said date of first use and the relevant class of the public has come to associate opposer with said designation. In view of the similarity of each of applicant's marks with opposer's designation, and in view of the related nature of the uses thereof, it is alleged that each of applicant's marks consists of and comprises matter that may disparage and falsely suggest a connection with opposer.

**Opposition Based on Trademark Act §1(b), 15 U.S.C. §1052(b)**

14. That Green Rain did not have a bona fide intent to use any of the cited marks in connection with the identified goods/services as of the filing date of each of the cited applications under Trademark Act § 1(b), 15 U.S.C. § 1052(b).

**Opposition Based on Applicant is not the Rightful Owner of the Mark**

15. That Green Rain is not (and was not, at the time of the filing of each of its cited applications for registration for each of the cited marks) the rightful owner of any of the cited marks.



WHEREFORE, Opposer prays that said application serial numbers 85728774, 85728792, and 85728756 be rejected, that no registration be issued on any of said applications to applicant, and that this opposition be sustained in favor of Opposer.

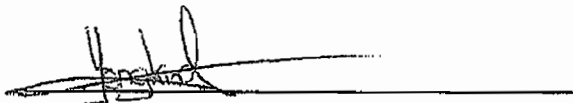
**Power of Attorney**

Opposer hereby appoints James Michael Faier (USPTO #56731) and Martin Faier (USPTO #20294), both members of the bar of Illinois, Faier & Faier P.C., 566 W. Adams St., Suite 600, Chicago, IL 60661 USA, to act as attorneys for opposer herein, with full power to prosecute said opposition, to transact all relevant business with the Patent and Trademark Office and in the United States Courts and to receive all official communications in connection with this opposition.

Opposer submits a fee of \$900 for this opposition. If the fees at any time tendered in this proceeding are deemed insufficient, then please take those fees from Faier & Faier P.C. deposit account 06-0040.

**Jongkind Grond B.V.**  
**a limited liability company of the Netherlands**

by:



print name:

H.J. Jongkind

title:

director

Jongkind Grond B.V.  
Oosteinderweg 357  
1432 AX Aalsmeer

CERTIFICATE OF SERVICE

I, James Michael Faier, an attorney, certify that I served on this date a copy of the foregoing NOTICE OF OPPOSITION upon counsel of record by depositing a copy thereof in the United States Mail, postage prepaid and addressed as follows:

DANIEL C. COTMAN, ESQ.  
COTMAN IP LAW GROUP, PLC  
117 E COLORADO BLVD STE 460  
PASADENA, CALIFORNIA 91105-3730  
UNITED STATES

Dated this 18th day of June 2013.

/jamesmichaelfaier/

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James Michael Faier  
signed: 18 June 2013.

The USPTO is pleased to report that the TSDR problem with the display of mark images has been resolved. Please clear your individual browser cache prior to accessing TSDR. If you continue to experience technical difficulties, **please email**.

STATUS DOCUMENTS

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Mark: GOLDLABEL



US Serial Number: 79086042

Application Filing Date: May 25, :

US Registration Number: 4051374

Registration Date: Nov. 08,

Register: Principal

Mark Type: Trademark

Status: Registered. The registration date is used to determine when post-registration maintenance do

Status Date: Nov. 08, 2011

Publication Date: Aug. 23, 2011

## Mark Information

Mark Literal Elements: GOLDLABEL

Standard Character Claim: No

Mark Drawing Type: 3 - AN ILLUSTRATION DRAWING WHICH INCLUDES WORD(S)/ LETTER(S)/NUMBER(S)

Description of Mark: The mark consists of the wording "GOLD LABEL" inside an oval design. A human silhouette w wording.

Color(s) Claimed: Color is not claimed as a feature of the mark.

Design Search Code(s): 02.01.02 - Men depicted as shadows or silhouettes of men; Silhouettes of men  
 02.09.11 - Humans, including men, women and children, depicted engaged in other work; Hun  
 26.03.17 - Ovals within ovals; Ovals, concentric; Concentric ovals and ovals within ovals; Con  
 26.03.21 - Ovals that are completely or partially shaded  
 26.17.01 - Bands, straight; Bars, straight; Straight line(s), band(s) or bar(s); Lines, straight  
 26.17.05 - Bands, horizontal; Horizontal line(s), band(s) or bar(s); Bars, horizontal; Lines, horiz

## Related Properties Information

International Registration 1047558  
Number:International Registration May 25, 2010  
Date:

## Goods and Services

### Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((.)) identify any goods/services not claimed in a Section 15 affidavit of
- Asterisks \*..\* identify additional (new) wording in the goods/services.

**For:** Chemical preparations for use in agriculture, horticulture and forestry except fungicides, herbic namely, potting soil, soil for plant cultivation and planting soil; natural manure and artificial mar growth; nutrients for plants

**International Class(es):** 001 - Primary Class

**U.S Class(es):** 001, 005

**Class Status:** ACTIVE

**Basis:** 66(a)

## Basis Information (Case Level)

<b>Filed Use:</b> No	<b>Currently Use:</b> No
<b>Filed ITU:</b> No	<b>Currently ITU:</b> No
<b>Filed 44D:</b> No	<b>Currently 44D:</b> No
<b>Filed 44E:</b> No	<b>Currently 44E:</b> No
<b>Filed 66A:</b> Yes	<b>Currently 66A:</b> Yes
<b>Filed No Basis:</b> No	<b>Currently No Basis:</b> No

## Current Owner(s) Information

**Owner Name:** Jongkind Grond B.V.

**Owner Address:** Oosteinderweg 357  
NL-1432 AX Aalsmeer  
NETHERLANDS

**Legal Entity Type:** Besloten vennootschap

**State or Country Where Organized:** NETHER

## Attorney/Correspondence Information

**Attorney of Record - None**

**Correspondent**

**Correspondent** IKC Nederland BV  
**Name/Address:** Driemanssteeweg 35  
NL-3084 CA ROTTERDAM  
NETHERLANDS

**Domestic Representative - Not Found**

## Prosecution History

Date	Description	Proceeding Number
Feb. 25, 2012	FINAL DECISION TRANSACTION PROCESSED BY IB	
Feb. 09, 2012	FINAL DISPOSITION NOTICE SENT TO IB	
Feb. 09, 2012	FINAL DISPOSITION PROCESSED	68359
Feb. 08, 2012	FINAL DISPOSITION NOTICE CREATED, TO BE SENT TO IB	
Nov. 08, 2011	REGISTERED-PRINCIPAL REGISTER	
Oct. 23, 2011	NOTIFICATION PROCESSED BY IB	
Oct. 11, 2011	PAPER RECEIVED	
Sep. 29, 2011	FAX RECEIVED	
Aug. 23, 2011	PUBLISHED FOR OPPOSITION	
Aug. 03, 2011	NOTIFICATION OF POSSIBLE OPPOSITION SENT TO IB	
Aug. 03, 2011	NOTICE OF START OF OPPOSITION PERIOD CREATED, TO BE SENT TO IB	
Aug. 03, 2011	NOTICE OF PUBLICATION	
Jul. 21, 2011	LAW OFFICE PUBLICATION REVIEW COMPLETED	68123
Jul. 13, 2011	APPROVED FOR PUB - PRINCIPAL REGISTER	
Jul. 13, 2011	AMENDMENT FROM APPLICANT ENTERED	88888
Jul. 11, 2011	CORRESPONDENCE RECEIVED IN LAW OFFICE	88888
Jul. 11, 2011	PAPER RECEIVED	
Jul. 06, 2011	AMENDMENT FROM APPLICANT ENTERED	68123
Jul. 06, 2011	CORRESPONDENCE RECEIVED IN LAW OFFICE	68123
Jul. 01, 2011	FAX RECEIVED	
Apr. 14, 2011	NON-FINAL ACTION MAILED	
Apr. 14, 2011	NON-FINAL ACTION WRITTEN	83222
Mar. 31, 2011	AMENDMENT FROM APPLICANT ENTERED	68123
Mar. 31, 2011	CORRESPONDENCE RECEIVED IN LAW OFFICE	68123
Mar. 07, 2011	ASSIGNED TO LIE	68123
Feb. 23, 2011	PAPER RECEIVED	
Feb. 17, 2011	FAX RECEIVED	

Oct. 16, 2010	REFUSAL PROCESSED BY IB	
Sep. 24, 2010	NON-FINAL ACTION MAILED - REFUSAL SENT TO IB	
Sep. 24, 2010	REFUSAL PROCESSED BY MPU	72589
Sep. 24, 2010	NON-FINAL ACTION (IB REFUSAL) PREPARED FOR REVIEW	
Sep. 23, 2010	NON-FINAL ACTION WRITTEN	83222
Sep. 21, 2010	APPLICATION FILING RECEIPT MAILED	
Sep. 17, 2010	ASSIGNED TO EXAMINER	83222
Sep. 17, 2010	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Sep. 16, 2010	SN ASSIGNED FOR SECT 66A APPL FROM IB	

**International Registration Information (Section 66a)**

**International Registration Number:** 1047558

**Priority Claimed Flag:** Yes

**Intl. Registration Status:** REQUEST FOR EXTENSION OF PROTECTION PROCESSED

**Notification of Designation Date:** Sep. 16, 2010

**International Registration Renewal Date:** May 25, 2020

**First Refusal Flag:** Yes

**International Registration Date:** May 25, :

**Date of Section 67 Priority Claim:** Nov. 27,

**Date of International Registration Status:** Sep. 16,

**Date of Automatic Protection:** Mar. 16,

**TM Staff and Location Information**

**TM Staff Information - None**

**File Location**

**Current Location:** PUBLICATION AND ISSUE SECTION

**Date in Location:** Nov. 08,

**Assignment Abstract Of Title Information - None recorded**

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