

ESTTA Tracking number: **ESTTA852848**

Filing date: **10/18/2017**

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	Arysta LifeScience Corporation
Granted to Date of previous extension	10/18/2017
Address	8-1, Akashi-cho, Chuo-ko Tokyo, 104 6591 JAPAN

Attorney information	Damian K. Gunningsmith Carmody Torrance Sandak & Hennessey LLP 195 Church StreetPO Box 1950 New Haven, CT 06509-1950 UNITED STATES Email: dgunningsmith@carmodylaw.com, trademarks@carmodylaw.com, jmc-manamon@carmodylaw.com, flahnin@carmodylaw.com Phone: 203-784-3185
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Applicant Information

Application No	87329562	Publication date	06/20/2017
Opposition Filing Date	10/18/2017	Opposition Period Ends	10/18/2017
Applicant	Guidry, Elvord NorAg Technology LLC 2901 Hackney Way Jamestown, NC 27282 UNITED STATES		

Goods/Services Affected by Opposition


Class 001. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Fertiliser for soil and potting soil; Fertilisers; Fertilisers for soil and potting soil; Fertilizers for agricultural use; Chemically converted compound fertilizers; Manganese fertilizer; Mineral fertilizers; Nitrogenous fertilizers
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Grounds for Opposition

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

U.S. Registration No.	3538631	Application Date	03/31/2005
Registration Date	11/25/2008	Foreign Priority Date	NONE

Word Mark	ARYSTA LIFESCIENCE
Design Mark	
Description of Mark	NONE
Goods/Services	Class 001. First use: First Use: 2007/03/01 First Use In Commerce: 2007/03/01 Fertilizers; chemicals for the manufacture of pharmaceuticals

U.S. Registration No.	3469831	Application Date	03/31/2005
Registration Date	07/15/2008	Foreign Priority Date	NONE
Word Mark	ARYSTA LIFESCIENCE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 2007/03/01 First Use In Commerce: 2007/03/01 Herbicides, insecticides, pesticides and fungicides for use in agriculture, horticulture and home and garden		

Attachments	78598796#TMSN.png(bytes) 78980295#TMSN.png(bytes) N5410710.PDF(42199 bytes)
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Signature	/Damian K. Gunningsmith/
Name	Damian K. Gunningsmith
Date	10/18/2017

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

In the Matter of Application:

Serial No.: 87/329,562
Filed: February 9, 2017
Applicant: Elvord Guidry
Mark: ERESTA
Class: IC001

Published in the Official Gazette of June 20, 2017

ARYSTA LIFESCIENCE CORPORATION,	:	
	:	
Opposer,	:	
	:	
v.	:	Opposition No. _____
	:	
ELVORD GUIDRY,	:	
	:	
Applicant	:	

NOTICE OF OPPOSITION

Opposer Arysta LifeScience Corporation, a Japanese corporation with its principal address at 8-1, Akashi-cho, Chuo-ko, Tokyo, 104 6591, Japan (hereinafter “Opposer”), believes that it will be damaged by registration of the mark shown in Application Serial No. 87/329,562 and hereby opposes same pursuant to § 13 of the Federal Trademark Act, 15 U.S.C. § 1063 as follows:

1. Application Serial No. 87/329,562 (the “Opposed Application”) seeks to register the mark, ERESTA, in International Class 001 for “Fertiliser for soil and potting soil; Fertilisers; Fertilisers for soil and potting soil; Fertilizers for agricultural use; Chemically converted compound fertilizers; Manganese fertilizer; Mineral fertilizers; Nitrogenous fertilizers” (“Applicant’s Goods”).

2. On information and belief, the Opposed Application was filed by Elvord Guidry, NorAg Technology, LLC, 2901 Hackney Way, Jamestown, North Carolina, 27282 on February 9, 2017.

3. The Opposed Application is based on Applicant's alleged intent to use in commerce the mark, ERESTA, for Applicant's Goods.

4. Opposer is now, and has for many years prior to the filing of Opposed Application been, engaged in the manufacture, distribution, sale, advertising and promotion in interstate commerce of, among other things, fertilizers, herbicides, insecticides, pesticides and fungicides for use in agriculture. Indeed, Opposer has invested time and expertise to innovate in the agrosience market including through its development of fertilizers herbicides, insecticides, pesticides and fungicides for use in agriculture.

5. Opposer is the owner of the corporate name and trademark ARYSTA LIFESCIENCE CORPORATION, and has used the name and mark continuously in interstate commerce on or in connection with fertilizers, herbicides, insecticides, pesticides and fungicides for use in agriculture and various other products and services complementary thereto since long prior to the filing date of the Opposed Application.

6. Opposer is also the owner of Federal trademark registrations and common law rights for trademarks for or including the words ARYSTA, and ARYSTA LIFESCIENCE CORPORATION, collectively referred to as the ARYSTA marks.

7. Opposer is the owner of the following subsisting Federal trademark registrations:

MARK	REG. NO.	ISSUE DATE	GOODS
ARYSTA LIFESCIENCE CORPORATION & Design	3,538,631	11/25/2008	ICL 01—Fertilizers; chemicals for the manufacture of pharmaceuticals.

ARYSTA LIFESCIENCE CORPORATION & Design	3,469,831	07/15/2008	ICL 05—Herbicides, insecticides, pesticides and fungicides for use in agriculture, horticulture and home and garden.
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(hereinafter collectively referred to as “Opposer’s Federal Registrations”).

8. Opposer’s Federal Registrations are *prima facie* evidence of the validity and exclusive right of Opposer to use the marks in Opposer’s Federal Registrations and are constructive notice of ownership thereof, all as provided by §§ 7(b) and 22 of the Federal Trademark Act, 15 U.S.C. §§ 1057(b) and 1072.

9. Opposer’s right to use the marks in Opposer’s Federal Registration for the goods or services on or in connection with which Opposer’s Federal Registrations are registered is incontestable as provided by §§ 15 and 33(b) of the Federal Trademark Act, 15 U.S.C. §§ 1065 and 1115(b).

10. Opposer has made substantial investments in advertising, promoting and selling its fertilizers, herbicides, insecticides, pesticides and fungicides for use in agriculture and various other products and services complementary thereto under Opposer’s ARYSTA marks since their initial use prior to the filing of Opposed Application. Opposer has extensively used, advertised, promoted and offered fertilizers, herbicides, insecticides, pesticides and fungicides for use in agriculture and various other products and services complementary thereto bearing Opposer’s ARYSTA marks to the public through various channels of trade in commerce.

11. Applicant’s Goods are closely related to and/or in the natural fields of expansion of the Opposer’s goods. The Applicant’s Goods, are the same or similar to Opposer’s goods, which include but are not limited to fertilizers, herbicides, insecticides, pesticides and fungicides for use in agriculture and various other products and services complementary thereto,.

12. Applicant is not lawfully entitled to the registration that it seeks for the reason, *inter alia*, that the mark, ERESTA, as used in connection with the Applicant's Goods, so resembles Opposer's ARYSTA marks as to be likely to cause confusion, to cause mistake or to deceive within the meaning of §2(d) of the Federal Trademark Act, 15 U.S.C. §1052(d).

WHEREFORE, Opposer believes that it would be damaged by the issuance of a registration based on the opposed application and that the present opposition should be sustained and registration of Applicant's mark refused.

Respectfully submitted,

ARYSTA LIFESCIENCE CORPORATION.

Dated: October 18, 2017

By: /Damian K. Gunningsmith/
Fatima Lahnin
Damian K. Gunningsmith
Carmody Torrance Sandak & Hennessey LLP
195 Church Street
P.O Box. 1950
New Haven, Connecticut 06509-1950
Phone: (203) 777-5501
Fax: (203) 784-3199
flahnin@carmodylaw.com
dgunningsmith@carmodylaw.com

Attorneys for Opposer