

ESTTA Tracking number: **ESTTA933271**

Filing date: **11/06/2018**

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	Cytosyme Laboratories, Inc.		
Entity	Corporation	Citizenship	Utah
Address	2700 South 600 West Salt Lake City, UT 84115 UNITED STATES		

Attorney information	Peter M. de Jonge Thorpe North & Western, LLP 175 S Main St. Suite 900 Salt Lake City, UT 84111 UNITED STATES dejonge@tnw.com, jillaine.chaston@tnw.com, kaelynn.moultrie@tnw.com, aimee.kaderabek@tnw.com, litigation@tnw.com 8015666633		
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Applicant Information

Application No	87953971	Publication date	10/09/2018
Opposition Filing Date	11/06/2018	Opposition Period Ends	11/08/2018
Applicant	JH Biotech, Inc. 4951 Olivas Park Drive Ventura, CA 93003 UNITED STATES		

Goods/Services Affected by Opposition


Class 001. First Use: 2018/06/07 First Use In Commerce: 2018/06/07 All goods and services in the class are opposed, namely: Microbial inoculants for application to seeds used in agriculture
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
Dilution by blurring	Trademark Act Sections 2 and 43(c)
Dilution by tarnishment	Trademark Act Sections 2 and 43(c)

Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	4192979	Application Date	06/16/2011
Registration Date	08/21/2012	Foreign Priority	NONE

		Date	
Word Mark	SEED+		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 001. First use: First Use: 1976/06/00 First Use In Commerce: 1976/06/00 Plant growth nutrients for treatment of seeds for use in agriculture, horticulture and forestry, plant nutrition preparations for the treatment of seeds		

Attachments	85347910#TMSN.png(bytes) SEEDUP Opposition.pdf(126844 bytes)
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Signature	/s/ Peter M De Jonge/
Name	Peter M. de Jonge
Date	11/06/2018

Peter M. de Jonge
Jillaine Chaston
THORPE NORTH & WESTERN, LLP
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Attorneys for Cytozyme Laboratories, Inc.
Opposed Mark: SEEDUP
U.S. Trademark Application Serial No.: 87953971

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

Cytozyme Laboratories, Inc.

Opposer,

v.

JH Biotech, Inc.

Applicant.

Opposition No. _____

NOTICE OF OPPOSITION

Cytozyme Laboratories, Inc. (“Opposer”), a corporation existing under the laws of the State of Utah, having a principal place of business at 2700 South 600 West, Salt Lake City, Utah 84115, believes it will be damaged by the registration of the mark SEEDUP, Application Serial No. 87953971 (the “’971 Application”) and alleges the following:

1. Upon information and belief, JH Biotech, Inc. (“Applicant”) is a corporation organized under the laws of the State of California, having a principle place of business at 4951 Olivas Park Drive, Ventura, California 93003.

2. Applicant seeks to register the mark SEEDUP in the '971 Application for use in connection with "microbial inoculants for application to seeds used in agriculture" in International Class 001.

3. Applicant claims in the '971 Application to have first used the SEEDUP mark in commerce on June 7, 2018.

4. Opposer is the owner of U.S. Trademark Registration No. 4192979 for the mark SEED+ for use in connection with "plant growth nutrients for treatment of seeds for use in agriculture, horticulture and forestry, plant nutrition preparations for the treatment of seeds" in International Class 001 (the "'979 Registration").

5. Opposer has used the SEED+ mark in commerce with the identified goods since at least as early as June 1976.

6. Through continuous use, Opposer has acquired and built substantial goodwill in the SEED+ mark.

7. Upon information and belief, registration of the '971 Application in connection with the goods listed therein is likely to damage Opposer in that SEEDUP, when used on or in connection with the identified goods, so resembles Opposer's mark SEED+ as to be likely to cause confusion, to cause mistake or to deceive consumers as to source. Such confusion is also likely to falsely suggest a connection between Opposer and Applicant.

8. Upon information and belief, Opposer's SEED+ mark is famous as defined under 15 U.S.C. § 1125(c). Through Opposer's use of the SEED+ mark since at least as early as June 1976, the SEED+ mark has become widely recognized by the general public as the source of the goods identified in the '979 Registration.

9. Registration of the '971 Application in connection with the goods listed therein is likely to dilute Opposer's famous SEED+ mark by blurring and/or tarnishment under 15 U.S.C. § 1125(c).

10. Upon information and belief, Applicant selected its mark with knowledge of Opposer's SEED+ mark.

WHEREFORE, Opposer requests that Application Serial No. 87953971 for the mark SEEDUP be refused registration, that no registrations be issued to Applicant for the mark SEEDUP in connection with the goods listed in the '971 Application and that this Opposition be sustained in favor of Opposer.

The statutory Opposition Filing Fee of \$400.00 is included herewith. Please charge any additional fees and credit any overpayment to Deposit Account No. 20-0100.

DATED this 6th day of November, 2018.

Respectfully submitted,

THORPE NORTH & WESTERN, LLP

/s/ Peter M. de Jonge/

Peter M. de Jonge

Jillaine Chaston

*Attorneys for Opposer,
Cytosyme Laboratories, Inc.*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing **NOTICE OF OPPOSITION** was served upon the following party by the methods indicated below:

Ralph D. Chabot
Law Office of Ralph D. Chabot
2310 E. Ponderosa Dr., Ste. 4
Camarillo, CA 93010
rdc@chabotlaw.com

- Electronic Mail
- United States Mail, First Class
- Overnight Delivery
- Fax Transmission

DATED this 6th day of November,
2018.

/s/ Kaelynn Moultrie/
Kaelynn Moultrie