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

Proceeding	91250143
Party	Defendant Theragen, Inc.
Correspondence Address	LYNN E RZONCA BALLARD SPAHR LLP 1735 MARKET STREET 51ST FLOOR PHILADELPHIA, PA 19103-7599 UNITED STATES Primary Email: <a href="mailto:tmddocketing@ballardspahr.com">tmddocketing@ballardspahr.com</a> Secondary Email(s): <a href="mailto:rzoncal@ballardspahr.com">rzoncal@ballardspahr.com</a> 215-864-8109
Submission	Answer
Filer's Name	Lynn E. Rzonca
Filer's email	<a href="mailto:rzoncal@ballardspahr.com">rzoncal@ballardspahr.com</a> , <a href="mailto:tmddocketing@ballardspahr.com">tmddocketing@ballardspahr.com</a> , <a href="mailto:tup-jak@ballardspahr.com">tup-jak@ballardspahr.com</a>
Signature	/Lynn E. Rzonca/
Date	07/27/2020
Attachments	COMPANION AG Answer to Opposition.pdf(142494 bytes )

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

GROWTH PRODUCTS LTD.	)	
PLANT HEALTH INTERMEDIATE, INC.,	)	
Opposer,	)	
v.	)	Opposition No. 91250143
	)	
FMK GROUP, LLC,	)	
Applicant.	)	

**ANSWER TO NOTICE OF OPPOSITION**

Applicant, by its undersigned counsel, hereby answers the corresponding numbered paragraphs of the Notice of Opposition as follows:

1. Applicant admits that the Opposer attached copies of its registrations to the Notice of Opposition. Otherwise, Applicant lacks sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations and characterizations contained in Paragraph 1 and therefore denies the allegations.

2. Applicant admits that the Opposer attached copies of its registrations to the Notice of Opposition. Otherwise, Applicant lacks sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations and characterizations contained in Paragraph 2 and therefore denies the allegations.

3. Applicant lacks sufficient knowledge or information to form a belief as to the truth or falsity of the allegations and characterizations contained in Paragraph 3 and therefore denies the allegations.

4. Applicant admits that the United States Patent and Trademark Office record for Registration Number 2,135,211 reflects October 20, 1994 as the Date of First Use in Commerce.

ADD OTHER LANGUAGE HERE. Applicant admits that it filed a trademark application for COMPANION AG in Classes 035, 042, and 044 under Section 1(b). Applicant denies that it has not yet commenced use of the applied-for COMPANION AG mark in connection with Classes 035, 042, and 044, as Applicant began using the COMPANION AG mark on July 1, 2019.

Otherwise, Applicant lacks sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations and characterizations contained in Paragraph 4 and therefore denies the allegations.

5. Applicant admits that Applicant's composite mark contains the term "COMPANION" along with the term "AG". Applicant denies the remaining allegations and characterizations contained in Paragraph 5.

6. Denied.

7. Denied.

8. Denied.

9. Denied.

### **AFFIRMATIVE DEFENSES**

Applicant asserts that the following affirmative defenses bar Opposer's requested relief in the Notice of Opposition.

#### **FIRST AFFIRMATIVE DEFENSE**

Opposer fails to state a claim upon which relief can be granted because there is no likelihood of confusion, mistake, or deception.

## **SECOND AFFIRMATIVE DEFENSE**

Applicant hereby gives notice that it may rely on any other defenses that may become available or appear proper during discovery, and hereby reserves its right to amend this Answer to assert any such defenses.

## **PRAYER FOR RELIEF**

WHEREFORE, Applicant requests that the opposition be dismissed and that Applicant's mark proceed to registration.

Respectfully submitted,

Dated: July 27, 2020

/Lynn E. Rzonca/

Lynn E. Rzonca  
Kristel Tupja  
Ballard Spahr LLP  
1735 Market Street, 51<sup>st</sup> Floor  
Philadelphia, PA 19103  
Tel: (215) 864-8109  
Fax: (215) 864-8999  
E-mail: [rzoncal@ballardspahr.com](mailto:rzoncal@ballardspahr.com)  
[tupjak@ballardspahr.com](mailto:tupjak@ballardspahr.com)  
[tmcketing@ballardspahr.com](mailto:tmcketing@ballardspahr.com)

*Attorneys for FMK GROUP, LLC*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document was served on Applicant's Attorney of Record by e-mail on the date below:

Gene S. Winter  
Samantha M. Gerold  
ST.ONGE STEWARD JOHNSTON & REENS LLC  
986 Bedford Street  
Stamford, CT 06905  
Tel. (203) 324-6155  
Email: gwinter@ssjr.com; sgerold@ssjr.com;  
litigation@ssjr.com

Dated: July 27, 2020

By:           /Kristel Tupja/            
Kristel Tupja