

ESTTA Tracking number: **ESTTA1005644**

Filing date: **10/01/2019**

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	HORIZON AG-PRODUCTS, L.P.
Granted to Date of previous extension	10/02/2019
Address	1450 INFINITE DRIVE LOUISVILLE, CO 80027 UNITED STATES

Attorney information	JAMES E. SHLESINGER SHLESINGER, ARKWRIGHT & GARVEY LLP 5845 RICHMOND HIGHWAY, SUITE 415 ALEXANDRIA, VA 22303 UNITED STATES jim@sagllp.com, danearle@sagllp.com, nitasantiago@sagllp.com 703-684-5600
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Applicant Information

Application No	88057306	Publication date	06/04/2019
Opposition Filing Date	10/01/2019	Opposition Period Ends	10/02/2019
Applicant	Verdesian Life Sciences U.S., LLC 1001 Winstead Drive, Suite 480 Cary, NC 27513 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: Fertilizers; plant growth nutrients for crops; chemicals for use in agriculture for crop protection, except fungicides, herbicides, insecticides and parasiticides
Class 005. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Fungicides, herbicides, insecticides, and parasiticides

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	4795520	Application Date	05/18/2012
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No.			
Registration Date	08/18/2015	Foreign Priority Date	NONE
Word Mark	NUE-PLEX		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 001. First use: First Use: 2015/02/25 First Use In Commerce: 2015/02/25 Soil applied fertilizer for agricultural use, and excluding chemicals for use in industry and science		

Attachments	85628919#TMSN.png(bytes) Notice of Opposition SN 88057306.pdf(144499 bytes)
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Signature	/jes/
Name	JAMES E. SHLESINGER
Date	10/01/2019

2. Opposer owns, among other things, the trademark, NUE-plex, and the registration thereof, and the good will represented thereby, and produces and delivers a line of fertilizers for agricultural use, under the mark, NUE-plex throughout the United States and abroad.

3. The use of said mark by Opposer is long prior to the filing date of the Applicant's mark, NUE, the application for registration and any use date claimed therein.

4. Opposer is the owner of the following U.S. trademark registration:

<u>Reg. No.</u>	<u>Trademark</u>	<u>Goods</u>
4,795,520	NUE-plex	SOIL APPLIED FERTILIZER FOR AGRICULTURAL USE, AND EXCLUDING CHEMICALS FOR USE IN INDUSTRY AND SCIENCE

The above-identified trademark registration is in full force and effect on the Principal Register of the United States and Patent and Trademark Office, and operates as prima facie evidence of Opposer's ownership of said marks and its exclusive right to use the same in commerce throughout the United States.

5. By virtue of extensive sales and use in commerce under the NUE-plex mark in the United States and abroad, the relevant trade and public have come to associate goods provided under the mark, NUE-plex, with Opposer, thereby creating a valuable reputation for such goods.

6. The Applicant, VERDESIAN LIFE SCIENCES U.S., LLC, filed on July 30, 2018, an application for a mark, NUE UNIVERSITY, for fertilizers; plant growth nutrients for crops; chemicals for use in agriculture for crop protection, except fungicides, herbicides, insecticides and parasiticides in Class 1 and for fungicides, herbicides, insecticides, and parasiticides in Class 5, which is similar to Opposer's NUE-plex mark. Upon information and belief, Applicant has not used its mark in the United States.

7. In view of the similarities between the respective marks, and their actual and intended uses, and the related nature of the goods of the respective marks and parties, Applicant's NUE UNIVERSITY mark so resembles Opposer's NUE-plex trademark and trademark registration, previously used in the United States and not abandoned, as to be likely to cause confusion or to cause mistake, or to deceive to the irreparable damage of Opposer.

8. If Applicant is granted a registration for the mark herein opposed, it would obtain thereby, at least a prima facie exclusive right to use the mark. Such registration would be a source of damage and injury to Opposer, and Opposer's business.

WHEREFORE, Opposer prays that Application Serial No. 88057306 be rejected, that no registration be issued thereon to


Serial No. 88057306

Applicant, and that this opposition be sustained in favor of
Opposer.

Respectfully submitted,

HORIZON AG-PRODUCTS, L.P.

Date: September 30, 2019

By: 
James E. Shlesinger
Daniel T. Earle
Attorneys for Opposer

SHLESINGER, ARKWRIGHT &
GARVEY LLP
5485 Richmond Highway,
Suite 415
Alexandria, Virginia 22303
(703) 684-5600
jim@sagllp.com
danearle@sagllp.com
nitasantiago@sagllp.com

CERTIFICATE OF SERVICE

It is hereby certified that this Notice of Opposition has
been served upon Applicant, Verdesian Life Sciences U.S., LLC,
1001 Winstead Drive, Suite 480, Cary, North Carolina 27513, by
email to Kirsten S. Carlos trademarks@vlsci.com this 1st day of
October, 2019.

By: 
James E. Shlesinger

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