

ESTTA Tracking number: **ESTTA1208382**

Filing date: **05/11/2022**

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	FMC Corporation		
Entity	Corporation	Citizenship	Delaware
Address	2929 WALNUT STREET PHILADELPHIA, PA 19104 UNITED STATES		

Attorney information	VICTORIA FRIEDMAN DENNEMEYER & ASSOCIATES, LLC 2 N. RIVERSIDE PLAZA SUITE 1500 CHICAGO, IL 60606 UNITED STATES Primary email: vfriedman@dennemeyer-law.com Secondary email(s): mgray@dennemeyer-law.com, mbabilonia@dennemeyer-law.com, docket@dennemeyer-law.com, tm-us@dennemeyer-law.com, acepuritis@dennemeyer-law.com No phone number provided		
Docket no.	USTO10166719		

**Applicant information**

Application no.	88885823	Publication date	04/12/2022
Opposition filing date	05/11/2022	Opposition period ends	05/12/2022
Applicant	MONSANTO COMPANY 800 N. LINDBERGH BLVD., E2NA ST. LOUIS, MO 63167 UNITED STATES		

**Goods/services affected by opposition**


Class 031. First Use: Dec 31, 2010 First Use In Commerce: Dec 31, 2010  
All goods and services in the class are opposed, namely: Agricultural seeds

**Grounds for opposition**

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

**Mark cited by opposer as basis for opposition**

U.S. registration no.	2430195	Application date	07/14/1997
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Register	Principal		
Registration date	02/20/2001	Foreign priority date	NONE
Word mark	STEWARD		
Design mark			
Description of mark	NONE		
Goods/services	Class 005. First use: First Use: Jun 22, 2000 First Use In Commerce: Jun 29, 2000 insecticides for agricultural use		

Attachments	75324474#TMSN.png( bytes ) STEWART Opposition.pdf(121779 bytes ) STEWART Notice of Opposition Exhibit A.pdf(149246 bytes )
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Signature	/Victoria Friedman/
Name	Victoria Friedman
Date	05/11/2022

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

FMC CORPORATION,	)	
	)	
Opposer,	)	
	)	Opposition No. _____
v.	)	
	)	Serial No.: 88/885,823
MONSANTO COMPANY	)	
	)	Mark: STEWART (plus design)
Applicant.	)	

TO THE COMMISSIONER OF TRADEMARKS:

**NOTICE OF OPPOSITION**

Opposer, FMC Corporation (“Opposer”), believes that it will be damaged by the registration of the mark STEWART (plus design) shown in Application Serial No. 88/885,823 (hereinafter “Applicant’s Mark”) for goods in International Class 31, namely, “agricultural seeds” (the “Applicant’s Goods”), owned by Monsanto Company (hereinafter “Applicant”) and, therefore, opposes the same.

As grounds for its opposition, Opposer alleges as follows:

1. On information and belief, Monsanto Company is a United States corporation with its principal place of business at 800 N. Lindbergh Blvd., E2NA, St. Louis, Missouri 63167.
2. Opposer is a Delaware corporation with its principal place of business at 2929 Walnut Street, Philadelphia, Pennsylvania 19104.
3. Opposer, FMC Corporation, is an agricultural sciences company engaged in the business of providing goods and services to growers in the fields of crop protection, plant health, and pest and turf management.
4. At least as early as 2000, Opposer’s predecessor began to invest an extraordinary amount of time and money building and growing its business. Since then, Opposer and its predecessor have continuously used the STEWARD trademark in connection with insecticides and related goods in commerce. Opposer serves agricultural, industrial, and consumer markets by delivering

innovative agricultural solutions and application systems rooted in science, safety, and sustainability.

5. Opposer owns United States Trademark Registration No. 2,430,195 for the mark “STEWARD” in connection with “insecticides for agricultural use” (International Class 05), filed in 1997 and maturing to registration in 2001.

6. Opposer’s “STEWARD” mark is valid and incontestable. The registration is conclusive evidence of the validity of the “STEWARD” Mark, and of the registration of the mark, of Opposer’s ownership of the mark, and of Opposer’s exclusive right to use the mark in commerce for the above-mentioned goods. A true and correct copy of the registration for Opposer’s “STEWARD” Mark is attached hereto and incorporated herein as Exhibit A.

7. The “STEWARD” mark has been continuously used in commerce since the year 2000. Considerable efforts have been expended to promote the “STEWARD” Mark. By virtue of these efforts and by virtue of the expertise and excellence of goods associated with the “STEWARD” Mark, the “STEWARD” Mark has achieved an extraordinary degree of consumer recognition and is uniquely associated and identified with Opposer. Moreover, the goodwill associated with the “STEWARD” Mark is an invaluable asset of Opposer.

8. Applicant filed an application to register Applicant’s Mark on Use-In-Commerce basis under Section 1(a) of the Lanham Act on April 24, 2020 (hereinafter “Application”) which was published for opposition on April 12, 2022.

9. Applicant’s Mark covers “agricultural seeds” in Class 31.

10. The filing date of the Application is long after Opposer’s established, longstanding rights in the incontestable “STEWARD” Mark.

11. The claimed date of first use in commerce of Applicant’s Mark is long after the Opposer’s established, longstanding rights in the incontestable “STEWARD” Mark.

12. Applicant’s Mark is confusingly similar to the “STEWARD” Mark. The goods in connection with which Applicant uses Applicant’s Mark are highly similar to the goods in connection with which Opposer uses the “STEWARD” Mark.

13. On information and belief, the goods offered in connection with Applicant’s Mark are advertised in the same or similar channels of trade as those offered in connection with the “STEWARD” Mark, and consumers of Opposer’s and Applicant’s goods and services are the same or similar.

14. On information and belief, by virtue of Opposer's federal trademark registration for the "STEWARD" Mark, Applicant is deemed to be on constructive notice of Opposer's federal trademark rights as a matter of law.

15. Due to these and other factors, Applicant's use of STEWART is likely to cause confusion, to cause mistake, or to deceive as to the affiliation, connection, or association of Applicant with Opposer, or as to the origin, sponsorship, or approval of Applicant's goods or commercial activities.

16. Opposer has standing to bring this opposition and to assert each of the causes of action herein.

**COUNT I - LIKELIHOOD OF CONFUSION**  
**UNDER § 2(d), 15 U.S.C. § 1052(d)**

17. Opposer repeats and incorporates by reference all of the foregoing paragraphs.

18. As its ground for relief, Opposer claims priority and likelihood of confusion under Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

19. Opposer, through the use of its "STEWARD" Mark and by virtue of the quality of Opposer's goods, has built up valuable goodwill and reputation with its "STEWARD" Mark.

20. Opposer's "STEWARD" Mark is distinctive, strong, and incontestable.

21. Applicant's Mark is highly similar in appearance, sound, connotation, and commercial impression to the "STEWARD" Mark.

22. A likelihood of confusion arises when the Applicant's Mark, as used on or in connection with the specified goods or services, so resembles a registered mark as to be likely to cause confusion. §TMEP 1207.01. Due to the similarities in appearance, sound, connotation, and commercial impression, along with the relatedness of the goods, Applicant's Mark is likely to cause confusion, mistake or to deceive the public, thus it is confusingly similar to Opposer's earlier "STEWARD" Mark.

23. The following two factors are key considerations in any likelihood of confusion determination: the similarity or dissimilarity of the marks in their entireties as to appearance, sound, connotation and commercial impression and the relatedness of the goods or services as described in the application and registration(s). *See, e.g., Federated Foods, Inc. v. Fort Howard Paper Co.*, 544 F.2d 1098, 1103, 192 USPQ 24, 29 (C.C.P.A. 1976); *In re Iolo Techs., LLC*, 95

USPQ2d 1498, 1499 (TTAB 2010); *In re Max Capital Grp. Ltd.*, 93 USPQ2d 1243, 1244 (TTAB 2010); *In re Thor Tech, Inc.*, 90 USPQ2d 1634, 1635 (TTAB 2009).

24. It is sufficient that the goods and/or services of the applicant and the registrant are related in some manner or that the conditions surrounding their marketing are such that they are likely to be encountered by the same persons under circumstances that, because of the marks used in connection therewith, would lead to the mistaken belief that they originate from the same source. *See, e.g., On-line Careline Inc. v. America Online Inc.*, 229 F.3d 1080, 56 USPQ2d 1471 (Fed. Cir. 2000).

25. The “STEWARD” Mark was adopted and used long prior to Applicants’ filing date or first use date of Applicants’ Mark.

26. Opposer’s “STEWARD” Mark was well-known, famous, and distinctive long prior to Applicant’s adoption, use, or application to register Applicants’ Mark.

27. Registration of Applicant’s Mark is likely to cause confusion, to cause mistake, and to deceive the consuming public and jeopardize the valuable goodwill and reputation Opposer has built up in connection with its “STEWARD” Mark.

28. Registration 2,430,195 consists solely of “STEWARD.”

29. The literal element of Applicant’s Mark differs from Opposer’s “STEWARD” Mark by just a single letter.

30. The literal element of Applicant’s Mark is the dominant distinctive element of Applicant’s Mark.

31. The goods identified in Application Serial No. 88/885,823 are identical or highly similar to and overlap with Opposer’s goods offered under the “STEWARD” Mark.

32. The likely consumers and trade channels for services offered under Opposer’s “STEWARD” Mark and Applicant’s Mark are related and overlap.

33. Based on the similarity of Applicant’s Mark and Opposer’s “STEWARD” Mark, consumers are likely to incorrectly believe that Applicant’s goods offered under Applicant’s Mark are sponsored, approved, or emanate from Opposer.

34. Registration and use of Applicant’s Mark is likely to cause confusion, mistake, or deception as to the source or origin of Applicant’s goods, or to induce consumers to incorrectly believe that Applicant’s goods are those of Opposer, or are sponsored or endorsed by, affiliated with, or associated with Opposer in violation of 15 U.S.C. § 1052(d).

35. Opposer is likely to be damaged by registration of Applicant's Mark.

36. Registration of the Applicant's Mark would be inconsistent with Opposer's prior rights in its "STEWART" Mark, would be inconsistent with Opposer's statutory grant of exclusivity of use of the "STEWART" Mark, and would damage Opposer's investment and goodwill in the "STEWART" Mark.

37. For the reasons set forth in the foregoing paragraphs, Applicant is not entitled to register Applicant's Mark and the Application should be denied in accordance with Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

**COUNT II: CLAIM FOR RELIEF FOR DILUTION**  
**UNDER 15 U.S.C. §1125(c)(1)**

38. Applicant re-alleges paragraphs 1-37 of this Notice of Opposition as set forth herein in full.

39. Use of the STEWART marks as shown in the Application Serial No. 88/885,823 is likely to dilute the distinctive quality of Opposer's famous STEWART Mark in violation of Section 43(c) of the Trademark Act. 15 U.S.C. § 1125(c).

40. Opposer is likely to be damaged by the registration of Applicant's marks.

**WHEREFORE**, Opposer prays as follows:

1. That this Opposition be sustained;
2. That U.S. Trademark Application Serial No. 88/885,823 be rejected; and
3. That registration of the Applicant's Mark STEWART (plus design) shown and specified in U.S. Trademark Application Serial No. 88/885,823 be refused and denied.

Respectfully submitted,

/Victoria Friedman/

Victoria Friedman  
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*Counsel for Opposer*  
**FMC CORPORATION**

**CERTIFICATE OF TRANSMISSION**

I hereby certify that this Notice of Opposition is being transmitted electronically through the ESTTA Filing System to the USPTO on this day, May 11, 2022.



# EXHIBIT A

**Int. Cl.: 5**

**Prior U.S. Cls.: 6, 18, 44, 46, 51, and 52**

**Reg. No. 2,430,195**

**United States Patent and Trademark Office**

**Registered Feb. 20, 2001**

**TRADEMARK  
PRINCIPAL REGISTER**

**STEWARD**

E.I. DU PONT DE NEMOURS AND COMPANY  
(DELAWARE CORPORATION)  
1007 MARKET STREET  
WILMINGTON, DE 19898

FIRST USE 6-22-2000; IN COMMERCE 6-29-2000.

SN 75-324,474, FILED 7-14-1997.

JENNIFER CHICOSKI, EXAMINING ATTORNEY

FOR: INSECTICIDES FOR AGRICULTURAL USE,  
IN CLASS 5 (U.S. CLS. 6, 18, 44, 46, 51 AND 52).



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# STEWARD

<b>Word Mark</b>	<b>STEWARD</b>
<b>Goods and Services</b>	IC 005. US 006 018 044 046 051 052. G & S: insecticides for agricultural use. FIRST USE: 20000622. FIRST USE IN COMMERCE: 20000629
<b>Mark Drawing Code</b>	(1) TYPED DRAWING
<b>Serial Number</b>	75324474
<b>Filing Date</b>	July 14, 1997
<b>Current Basis</b>	1A
<b>Original Filing Basis</b>	1B
<b>Published for Opposition</b>	May 5, 1998
<b>Registration Number</b>	2430195
<b>Registration Date</b>	February 20, 2001
<b>Owner</b>	(REGISTRANT) E.I. du Pont de Nemours and Company CORPORATION DELAWARE 1007 MARKET ST. Wilmington DELAWARE 19898  (LAST LISTED OWNER) FMC CORPORATION CORPORATION DELAWARE 2929 WALNUT STREET PHILADELPHIA PENNSYLVANIA 19104
<b>Assignment Recorded</b>	ASSIGNMENT RECORDED
<b>Attorney of Record</b>	Victoria Friedman
<b>Type of Mark</b>	TRADEMARK
<b>Register</b>	PRINCIPAL
<b>Affidavit Text</b>	SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20210522.
<b>Renewal</b>	2ND RENEWAL 20210522

**Live/Dead  
Indicator**

LIVE

- 
- TESS HOME
  - NEW USER
  - STRUCTURED
  - FREE FORM
  - BROWSE DICT
  - SEARCH OG
  - TOP
  - HELP
  - PREV LIST
  - CURR LIST
  - NEXT LIST
- FIRST DOC
  - PREV DOC
  - NEXT DOC
  - LAST DOC

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