

ESTTA Tracking number: **ESTTA600569**

Filing date: **04/25/2014**

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

Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	Nufarm Americas Inc.		
Entity	Corporation	Citizenship	Illinois
Address	11901 South Austin Avenue Alsip, IL 60803 UNITED STATES		

Attorney information	Dianne M. Smith-Misemer Hovey Williams LLP 10801 Mastin Blvd., Suite 1000 Overland Park, KS 66210 UNITED STATES tmdocketing.misemer@hoveywilliams.com, litigation@hoveywilliams.com Phone:913 647 9050		
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Registration Subject to Cancellation

Registration No	1486658	Registration date	05/03/1988
Registrant	STATE INDUSTRIAL PRODUCTS CORPORATION 5915 LANDERBROOK DRIVE MAYFIELD HEIGHTS, OH 44124 UNITED STATES		

Goods/Services Subject to Cancellation

Class 005. First Use: 1986/06/05 First Use In Commerce: 1986/06/05 All goods and services in the class are cancelled, namely: INSECTICIDE
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Grounds for Cancellation

Abandonment	Trademark Act section 14
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Attachments	Petition for Cancellation.pdf(13470 bytes) Exhibit A.pdf(336488 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Dianne M. Smith-Misemer/
Name	Dianne M. Smith-Misemer

Date	04/25/2014
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**THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of)	
U.S. Registration No. 1486658 for)	
TERMINATE)	
)	
NUFARM AMERICAS INC.)	
)	
Petitioner,)	
)	
v.)	Cancellation No. _____
STATE INDUSTRIAL PRODUCTS)	
CORPORATION)	
)	
Registrant.)	

PETITION FOR CANCELLATION

Nufarm Americas Inc. (“Petitioner”), an Illinois corporation having its principal place of business at 11901 South Austin Avenue, Alsip, Illinois 60803, believes that it will be damaged by the continued registration of U.S. Registration No. 1486658 and hereby petitions for cancellation of same under § 14 of the Trademark Act of 1946, 15 U.S.C. § 1064.

As grounds for its Petition for Cancellation, Petitioner alleges that:

1. Petitioner is an Illinois corporation having its principal place of business at 11901 South Austin Avenue, Alsip, Illinois 60803.
2. State Industrial Products Corporation is an Ohio corporation having its principal place of business at 5915 Landerbrook Drive, Suite 300, Mayfield Heights, Ohio 44124 (“Registrant”).
3. Petitioner owns U.S. Serial No. 86/141,991 for the mark TERMINATE, filed December 12, 2013 (“Petitioner’s Application”). Petitioner’s Application covers “Plant growth

regulators for agricultural use; Substances for regulating plant growth” in International Class 001.

4. Registrant owns U.S. Registration No. 1486658 for the mark TERMINATE (“Registration”). The Registration issued on May 3, 1988 and covers “insecticide” in International Class 005.

5. The United States Patent & Trademark Office (“USPTO”) issued an Office Action on March 21, 2014 for Petitioner’s Application, citing U.S. Registration No. 1486658 for Registrant’s TERMINATE mark the sole basis for initially refusing registration of Petitioner’s TERMINATE mark. Consequently, Petitioner believes that the continued registration of U.S. Registration No. 1486658 will impair Petitioner’s rights in and to Petitioner’s TERMINATE mark and Petitioner’s Application.

ABANDONMENT THROUGH NON-USE

6. Petitioner repeats and realleges the allegations contained in Paragraphs 1 through 5 as though set forth fully herein.

7. Upon information and belief, Registrant has abandoned the TERMINATE trademark covered by U.S. Registration No. 1486658.

8. Upon information and belief, Registrant abandoned all rights it may have had to the TERMINATE mark and to U.S. Registration No. 1486658 by not using the TERMINATE mark in United States commerce in connection with the goods listed in the Registration.

9. Registrant’s non-use of the TERMINATE mark constitutes abandonment and is therefore grounds for cancellation under § 14 of the Lanham Act, 15 U.S.C. § 1064(1).

WHEREFORE, Petitioner alleges and believes that it will be damaged by the continued registration of U.S. Registration No. 1486658 and prays that this Petition for Cancellation be granted and that U.S. Registration No. 1486658 be cancelled under § 14 of the Lanham Act, 15 U.S.C. § 1064.

Nufarm Americas Inc. hereby appoints Dianne M. Smith-Misemer and Hovey Williams LLP, 10801 Mastin Boulevard, Suite 1000, Corporate Woods, Building 84, Overland Park, Kansas 66210, as its representative upon whom notices and process in proceedings affecting this proceeding may be served.

Respectfully submitted,

NUFARM AMERICAS INC.

Dated: April 25, 2014

By: /s/ Dianne M. Smith-Misemer
Dianne M. Smith-Misemer
Attorney for Nufarm Americas Inc.
HOVEY WILLIAMS LLP
10801 Mastin Boulevard
Suite 1000
Corporate Woods, Building 84
Overland Park, Kansas 66201
Tel. No. 913-232-5011
Fax. No. 913-647-9057

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing PETITION FOR CANCELLATION to be served upon:

WILLIAM A BARNETT
3100 HAMILTON AVE
CLEVELAND, OHIO 44114

STATE INDUSTRIAL PRODUCTS CORPORATION
5915 LANDERBROOK DRIVE
SUITE 300
MAYFIELD HEIGHTS, OHIO 44124

by placing same in an envelope, properly sealed and addressed, with postage prepaid and depositing same with the United States Postal Service on this 25th day of April, 2014.

/s/ Dianne M. Smith-Misemer
Dianne M. Smith-Misemer

STATUS

DOCUMENTS

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Mark: TERMINATE

TERMINATE

US Serial Number: 86141991

Application Filing Date: Dec. 12, 2013

Filed as TEAS Plus: Yes

Currently TEAS Plus: Yes

Register: Principal

Mark Type: Trademark

Status: A non-final Office action has been sent (issued) to the applicant. This is a letter from the examiner providing information and/or making an initial refusal. The applicant must respond to this Office action. To view the Trademark Document Retrieval link at the top of this page.

Status Date: Mar. 21, 2014

Mark Information

Mark Literal Elements: TERMINATE

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Goods and Services

Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((..)) identify any goods/services not claimed in a Section 15 affidavit of intent to use;
- Asterisks *..* identify additional (new) wording in the goods/services.

For: Plant growth regulators for agricultural use; Substances for regulating plant growth

International Class(es): 001 - Primary Class

U.S Class(es): 001, 005, 006

Class Status: ACTIVE

Basis: 1(b)

Basis Information (Case Level)

Filed Use: No

Currently Use: No

Filed ITU: Yes

Currently ITU: Yes

Filed 44D: No

Currently 44D: No

Filed 44E: No

Currently 44E: No

Filed 66A: No

Currently 66A: No

Filed No Basis: No

Currently No Basis: No

Current Owner(s) Information

Owner Name: Nufarm Americas Inc.

Owner Address: 11901 South Austin Avenue
Alsip, ILLINOIS 60803
UNITED STATES

Legal Entity Type: CORPORATION

State or Country Where Organized: ILLINOIS

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Dianne M. Smith-Misemer

Docket Number: 45900/5182.:

Attorney Primary Email tmdocketing.misemer@hovewilliams.com
Address:

Attorney Email Authorized: Yes

Correspondent

Correspondent Name/Address: DIANNE M. SMITH-MISEMER
HOVEY WILLIAMS LLP
10801 MASTIN ST STE 1000
OVERLAND PARK, KANSAS 66210-1697
UNITED STATES

Phone: 913-647-9050

Fax: 913-647-905

Correspondent e-mail: tmdocketing.misemer@hovewilliams.com

Correspondent e-mail Authorized: Yes

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Mar. 21, 2014	NOTIFICATION OF NON-FINAL ACTION E-MAILED	6325
Mar. 21, 2014	NON-FINAL ACTION E-MAILED	6325
Mar. 21, 2014	NON-FINAL ACTION WRITTEN	74309
Mar. 16, 2014	ASSIGNED TO EXAMINER	74309
Dec. 27, 2013	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Dec. 16, 2013	NEW APPLICATION ENTERED IN TRAM	

TM Staff and Location Information

TM Staff Information

TM Status Information

TM Attorney: WOOD, CAROLINE

Law Office Assigned: LAW OFFICE

File Location

Current Location: TMO LAW OFFICE 110 - EXAMINING ATTORNEY
ASSIGNED

Date in Location: Mar. 21, 2014

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