UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

BAYER CROPSCIENCE LP AND MONSANTO COMPANY,

Petitioners,

v.

CORTEVA AGRISCIENCE LLC,

Patent Owner.

Case No. IPR2023-01038
U.S. Patent No. 11,299,745

PETITIONERS' OBJECTIONS TO EVIDENCE OF PATENT OWNER CORTEVA AGRISCIENCE LLC

Pursuant to 37 C.F.R. § 42.64(b)(1), Petitioners Bayer CropScience LP and Monsanto Company (collectively, "Petitioners"), submit the following objections to the admissibility of evidence filed and served by Patent Owner Corteva Agriscience LLC accompanying its Patent Owner's Preliminary Response. Petitioners reserve the right to rely on Patent Owner's exhibits for any purpose for which they are admissible.

Exhibit	Objections
EX2001 – Fumiyasu Fukumori and Robert P. Hausinger, *Purification and Characterization of 2,4-Dichlorophenoxyacetate/α-Ketoglutarate Dioxygenase*, J. of Biol. Chem., Vol. 268, No. 32, pp. 24311-17 (1993) ("Fukumori").	**FRE 802:** To the extent it is being offered to prove the truth of the matter asserted, the exhibit constitutes inadmissible hearsay.
EX2002 – Sealed Version of Defendants' Counterclaims to Plaintiff's Second Amended Complaint, *Corteva Agriscience LLC v. Monsanto Co.*, No. 22-cv-1046-GBW (D. Del.), D.I. 143 (excerpted pages 38 to 65 and accompanying exhibits) (CONFIDENTIAL – FILED UNDER SEAL)	**FRE 401 and 402:** The exhibit is not relevant to support patentability as to any ground upon which trial was instituted, including because Patent Owner's Preliminary Response does not identify the exhibit's purported relevance and because the exhibit is a non-prior-art document. **FRE 401 and 403:** The exhibit is not relevant to support patentability as to any ground upon which trial was instituted, including because the exhibit is a non-prior-art document. Therefore, any probative value would be substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, and wasting time.

EX2003 – Redacted Version of Defendants' Counterclaims to Plaintiff's Second Amended Complaint, *Corteva Agriscience LLC v. Monsanto Co.*, No. 22-cv-1046-GBW (D. Del.), D.I. 143 (excerpted pages 38 to 65 and accompanying exhibits)	**FRE 401 and 402:** The exhibit is not relevant to support patentability as to any ground upon which trial was instituted, including because Patent Owner's Preliminary Response does not identify the exhibit's purported relevance and because the exhibit is a non-prior-art document. **FRE 401 and 403:** The exhibit is not relevant to support patentability as to any ground upon which trial was instituted, including because the exhibit is a non-prior-art document. Therefore, any probative value would be substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, and wasting time.
EX2004 – Protein sequences (CONFIDENTIAL – FILED UNDER SEAL)	**FRE 401 and 402:** The exhibit is not relevant to support patentability as to any ground upon which trial was instituted, including because Patent Owner's Preliminary Response does not identify the exhibit's purported relevance and because the exhibit is a non-prior-art document. **FRE 401 and 403:** The exhibit is not relevant to support patentability as to any ground upon which trial was instituted, including because the exhibit is a non-prior-art document. Therefore, any probative value would be substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, and wasting time. **FRE 802:** To the extent it is being offered to prove the truth of the matter

	asserted, the exhibit constitutes inadmissible hearsay.
EX2005 – Protein sequences (CONFIDENTIAL – FILED UNDER SEAL)	**FRE 401 and 402:** The exhibit is not relevant to support patentability as to any ground upon which trial was instituted, including because Patent Owner's Preliminary Response does not identify the exhibit's purported relevance and because the exhibit is a non-prior-art document. **FRE 401 and 403:** The exhibit is not relevant to support patentability as to any ground upon which trial was instituted, including because the exhibit is a non-prior-art document. Therefore, any probative value would be substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, and wasting time. **FRE 802:** To the extent it is being offered to prove the truth of the matter asserted, the exhibit constitutes inadmissible hearsay.
EX2006 – Protein presentation (CONFIDENTIAL – FILED UNDER SEAL)	**FRE 401 and 402:** The exhibit is not relevant to support patentability as to any ground upon which trial was instituted, including because Patent Owner's Preliminary Response does not identify the exhibit's purported relevance and because the exhibit is a non-prior-art document. **FRE 401 and 403:** The exhibit is not relevant to support patentability as to any ground upon which trial was instituted, including because the exhibit is a non-prior-art document. Therefore,

	any probative value would be substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, and wasting time. **FRE 802:** To the extent it is being offered to prove the truth of the matter asserted, the exhibit constitutes inadmissible hearsay.
EX2007 – Protein presentation (CONFIDENTIAL – FILED UNDER SEAL)	**FRE 401 and 402:** The exhibit is not relevant to support patentability as to any ground upon which trial was instituted, including because Patent Owner's Preliminary Response does not identify the exhibit's purported relevance and because the exhibit is a non-prior-art document. **FRE 401 and 403:** The exhibit is not relevant to support patentability as to any ground upon which trial was instituted, including because the exhibit is a non-prior-art document. Therefore, any probative value would be substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, and wasting time. **FRE 802:** To the extent it is being offered to prove the truth of the matter asserted, the exhibit constitutes inadmissible hearsay.
EX2008 – Protein sequences (CONFIDENTIAL – FILED UNDER SEAL)	**FRE 401 and 402:** The exhibit is not relevant to support patentability as to any ground upon which trial was instituted, including because Patent Owner's Preliminary Response does not identify the exhibit's purported

	relevance and because the exhibit is a non-prior-art document. **FRE 401 and 403:** The exhibit is not relevant to support patentability as to any ground upon which trial was instituted, including because the exhibit is a non-prior-art document. Therefore, any probative value would be substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, and wasting time. **FRE 802:** To the extent it is being offered to prove the truth of the matter asserted, the exhibit constitutes inadmissible hearsay.
EX2009 – Protein assay analysis (CONFIDENTIAL – FILED UNDER SEAL)	**FRE 401 and 402:** The exhibit is not relevant to support patentability as to any ground upon which trial was instituted, including because Patent Owner's Preliminary Response does not identify the exhibit's purported relevance and because the exhibit is a non-prior-art document. **FRE 401 and 403:** The exhibit is not relevant to support patentability as to any ground upon which trial was instituted, including because the exhibit is a non-prior-art document. Therefore, any probative value would be substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, and wasting time. **FRE 802:** To the extent it is being offered to prove the truth of the matter

	asserted, the exhibit constitutes inadmissible hearsay.
EX2010 – Protein assay analysis (CONFIDENTIAL – FILED UNDER SEAL)	**FRE 401 and 402:** The exhibit is not relevant to support patentability as to any ground upon which trial was instituted, including because Patent Owner's Preliminary Response does not identify the exhibit's purported relevance and because the exhibit is a non-prior-art document. **FRE 401 and 403:** The exhibit is not relevant to support patentability as to any ground upon which trial was instituted, including because the exhibit is a non-prior-art document. Therefore, any probative value would be substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, and wasting time. **FRE 802:** To the extent it is being offered to prove the truth of the matter asserted, the exhibit constitutes inadmissible hearsay.
EX2011 – Protein presentation (CONFIDENTIAL – FILED UNDER SEAL)	**FRE 401 and 402:** The exhibit is not relevant to support patentability as to any ground upon which trial was instituted, including because Patent Owner's Preliminary Response does not identify the exhibit's purported relevance and because the exhibit is a non-prior-art document. **FRE 401 and 403:** The exhibit is not relevant to support patentability as to any ground upon which trial was instituted, including because the exhibit is a non-prior-art document. Therefore,

	any probative value would be substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, and wasting time. **FRE 802:** To the extent it is being offered to prove the truth of the matter asserted, the exhibit constitutes inadmissible hearsay.
Protein sequences and correspondence (CONFIDENTIAL – FILED UNDER SEAL)	**FRE 401 and 402:** The exhibit is not relevant to support patentability as to any ground upon which trial was instituted, including because Patent Owner's Preliminary Response does not identify the exhibit's purported relevance and because the exhibit is a non-prior-art document. **FRE 401 and 403:** The exhibit is not relevant to support patentability as to any ground upon which trial was instituted, including because the exhibit is a non-prior-art document. Therefore, any probative value would be substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, and wasting time. **FRE 802:** To the extent it is being offered to prove the truth of the matter asserted, the exhibit constitutes inadmissible hearsay.
GenBank Accession No. MH043112	**FRE 401 and 402:** The exhibit is not relevant to support patentability as to any ground upon which trial was instituted, including because the exhibit is a non-prior-art document.

	FRE 401 and 403: The exhibit is not relevant to support patentability as to any ground upon which trial was instituted, including because the exhibit is a non-prior-art document. Therefore, any probative value would be substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, and wasting time. **FRE 802:** To the extent it is being offered to prove the truth of the matter asserted, the exhibit constitutes inadmissible hearsay.
GenBank Accession No. MH043114	**FRE 401 and 402:** The exhibit is not relevant to support patentability as to any ground upon which trial was instituted, including because the exhibit is a non-prior-art document. **FRE 401 and 403:** The exhibit is not relevant to support patentability as to any ground upon which trial was instituted, including because the exhibit is a non-prior-art document. Therefore, any probative value would be substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, and wasting time. **FRE 802:** To the extent it is being offered to prove the truth of the matter asserted, the exhibit constitutes inadmissible hearsay.
GenBank Accession No. MH043115	**FRE 401 and 402:** The exhibit is not relevant to support patentability as to any ground upon which trial was

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Dated: January 4, 2024

Respectfully submitted,

/Dov P. Grossman/
Dov P. Grossman
Reg. No. 72,525
Lead Counsel for Petitioners

CERTIFICATE OF SERVICE
(37 C.F.R. § 42.6(e))

The undersigned hereby certifies that on January 4, 2024, I caused a true and correct copy of the foregoing Petitioners' Objections to Evidence of Patent Owner Corteva Agriscience LLC to be served on the following via email at:

Pier D. DeRoo	pier.deroo@ finnegan.com
Michael J. Flibbert	michael.flibbert@finnegan.com
Jessica L. Roberts	jessica.roberts@finnegan.com
Yieyie Yang	yieyie.yang@finnegan.com

/Dov P. Grossman/
Dov P. Grossman
Reg. No. 72,525
Lead Counsel for Petitioners

Date: January 4, 2024