

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SYNGENTA CROP PROTECTION AG,
Petitioner,

v.

UPL LTD,
Patent Owner.

PGR2023-00017
U.S. Patent No. 11,445,727

**PETITIONER'S OBJECTION TO EVIDENCE IN
PATENT OWNER'S PRELIMINARY RESPONSE**

Pursuant to 37 C.F.R. § 42.64(b), Petitioner submits the following objections to the admissibility of evidence served with Patent Owner's Preliminary Response (Paper No. 6), dated May 8, 2023. In accordance with 37 C.F.R. § 42.64(b)(1), these objections are being timely filed within ten (10) business days of the institution of the trial. The Petitioner's objections are based on the Federal Rules of Evidence ("FRE"), as set forth below.

Exhibits 2001/2002

Exhibits 2001/2002 are irrelevant or, at the very least, their probative value is substantially outweighed by a danger of unfair prejudice or confusing the issues. FRE 401-403.

Exhibits 2001/2002 are inadmissible hearsay. FRE 801-802. Patent Owner offers the exhibit for the purpose of establishing the truth of certain matters allegedly asserted therein, including that the word "association" means separate applications. *See* Paper 6 at 23-24.

Patent Owner has not authenticated Exhibits 2001/2002, nor has Patent Owner established Exhibits 2001/2002 are self-authenticating within the meaning of FRE 902. FRE 901-902.

Exhibit 2003

Exhibit 2003 is irrelevant or, at the very least, its probative value is substantially outweighed by a danger of unfair prejudice or confusing the issues.

FRE 401-403.

Exhibit 2003 is inadmissible hearsay. FRE 801-802. Patent Owner offers the exhibit for the purpose of establishing the truth of certain matters allegedly asserted therein, including that Nimbus is a fungicide. *See* Paper 6 at 25-26.

Patent Owner has not authenticated Exhibit 2003, nor has Patent Owner established Exhibit 2003 is self-authenticating within the meaning of FRE 902. FRE 901-902.

Exhibit 2004

Exhibit 2004 is irrelevant or, at the very least, its probative value is substantially outweighed by a danger of unfair prejudice or confusing the issues. FRE 401-403.

Exhibit 2004 is inadmissible hearsay. FRE 801-802. Patent Owner offers the exhibit for the purpose of establishing the truth of certain matters allegedly asserted therein, including that Nimbus is a fungicide. *See* Paper 6 at 25-26.

Patent Owner has not authenticated Exhibit 2003, nor has Patent Owner established Exhibit 2004 is self-authenticating within the meaning of FRE 902. FRE 901-902.

Exhibits 2005/2006

Exhibits 2005/2006 are irrelevant or, at the very least, their probative value is substantially outweighed by a danger of unfair prejudice or confusing the issues. FRE 401-403.

Exhibits 2005/2006 are inadmissible hearsay. FRE 801-802. Patent Owner offers the exhibit for the purpose of establishing the truth of certain matters allegedly asserted therein, including that Nimbus is a fungicide. *See* Paper 6 at 25-26.

Patent Owner has not authenticated Exhibits 2005/2006, nor has Patent Owner established Exhibits 2005/2006 are self-authenticating within the meaning of FRE 902. FRE 901-902.

Exhibits 2007/2008

Exhibits 2007/2008 are irrelevant or, at the very least, their probative value is substantially outweighed by a danger of unfair prejudice or confusing the issues. FRE 401-403.

Exhibits 2007/2008 are inadmissible hearsay. FRE 801-802. Patent Owner offers the exhibit for the purpose of establishing the truth of certain matters allegedly asserted therein, including that Nimbus is a fungicide. *See* Paper 6 at 25-26.

Patent Owner has not authenticated Exhibits 2007/2008, nor has Patent Owner established Exhibits 2007/2008 are self-authenticating within the meaning of FRE 902. FRE 901-902.

Exhibits 2009/2010

Exhibits 2009/2010 are irrelevant or, at the very least, their probative value is substantially outweighed by a danger of unfair prejudice or confusing the issues. FRE 401-403.

Exhibits 2009/2010 are inadmissible hearsay. FRE 801-802. Patent Owner offers the exhibit for the purpose of establishing the truth of certain matters allegedly asserted therein, including that Nimbus is a fungicide. *See* Paper 6 at 25-26.

Patent Owner has not authenticated Exhibits 2009/2010, nor has Patent Owner established Exhibits 2009/2010 are self-authenticating within the meaning of FRE 902. FRE 901-902.

Date: August 14, 2023

Respectfully submitted,

/David M. Klecyngier/

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Certificate of Service

Pursuant to 37 C.F.R. § 42.6(e), I hereby certify that on August 14, 2023, a copy of the foregoing PETITIONER'S OBJECTION TO EVIDENCE was provided via email to the following:

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