

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SYNGENTA CROP PROTECTION AG,
Petitioner,

v.

UPL LTD.,
Patent Owner.

Case PGR2023-00017
Patent 11,445,727 B2

DECLARATION OF RYAN KODY JONES

I, Ryan Kody Jones, hereby declare as follows:

1. I prepared this declaration at the request of counsel for Syngenta Crop Protection AG (“Syngenta” or “Petitioner”) to submit evidence that NIMBUS® is a trademark registered in the Federal Republic of Brazil to Syngenta Limited and is a mineral oil product distributed by Syngenta or an affiliated company in Brazil. In Support, I provided: Exhibits 1024 and 1026, Syngenta trademark registrations for NIMBUS® in Brazil; and Ex. 1028, the material safety and data sheet (MSDS) stating Syngenta’s NIMBUS® in Brazil is a mineral oil product.

2. I am currently a Senior Assistant General Counsel, Intellectual Property, at Syngenta Crop Protection, LLC located at 410 Swing Road, Greensboro, NC 27409.

3. I make this declaration based upon personal knowledge. I am over the age of 21 and otherwise competent to make this declaration.

4. Attached to this declaration are trademark registrations for NIMBUS®. Exhibit 1024 is a true and correct copy of a trademark registration certificate issued by the Federal Republic of Brazil to Syngenta Limited (Great Britain) for NIMBUS® (Reg. No. 007161867). The original of Ex. 1024 is a record that is kept in the ordinary and regular course of business at a Syngenta affiliated company and I obtained a copy from such affiliate.

5. Exhibit 1024 shows that the trademark NIMBUS® was granted in 1980

and extends to the year 2030. Exhibit 1024 further shows that NIMBUS® is a product used in agriculture, horticulture and forestry, other than insecticides, fungicides and herbicides.

6. Exhibit 1026 is a true and correct copy of another trademark registration certificate issued by the Federal Republic of Brazil to Syngenta Limited (Great Britain) for NIMBUS® (Reg. No. 200012975). The original of Ex. 1026 is a record that is kept in the ordinary and regular course of business at a Syngenta affiliated company and I obtained a copy from such affiliate.

7. Exhibit 1026 differs from Ex. 1024 in that Ex. 1026 is a trademark for a different class. Exhibit 1026 shows that the trademark was granted in 1980 and extends to the year 2030. The registration in Ex. 1026 shows that NIMBUS® is also registered for insecticides, fungicides and herbicides or for use with such products.

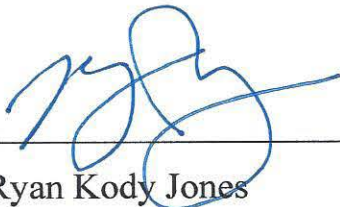
8. Further, Syngenta or one or more of its affiliated companies monitors the NIMBUS® trademark to determine if entities or persons file the same or similar trademarks in Brazil. Syngenta is not aware that UPL, LTD., or any other entity or person, filed or owns any trademarks to NIMBUS® in Brazil for similar products.

9. The product NIMBUS® distributed in Brazil by Syngenta or an affiliated company is composed of mineral oil as indicated by Ex. 1028. Exhibit 1028 is a record that is kept in the ordinary and regular course of business at a Syngenta affiliated company and I obtained a copy from such affiliate.

10. NIMBUS® is an adjuvant that can be added to a formulation to improve the spraying characteristics of the formulation. The product NIMBUS® distributed in Brazil by Syngenta does not contain a fungicide.

11. In signing this declaration, I understand this declaration will be filed as evidence in the above-captioned proceeding. I acknowledge that I may be subject to cross-examination within the scope of this declaration at a convenient time and place within the United States, should the same be requested.

12. I hereby declare under penalty of perjury that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code.



Ryan Kody Jones



Dated