

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 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 Response (Paper No. 32), dated November 9, 2023. In accordance with 37 C.F.R. § 42.64(b)(1), these objections are being timely filed within five (5) business days of service of evidence to which the objection is directed. The Petitioner's objections are based on the Federal Rules of Evidence ("FRE"), as set forth below.

Exhibits 2020

Exhibit 2020 is improper under FRE 702. For example, Exhibit 2020 includes Expert Testimony to which Dr. Jacobsen is not qualified to make, (public availability of Godoy) relies on irrelevant references, and fails to use reliable principles and methods. FRE 702.

Further to the above errors, Exhibit 2020 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.

Exhibits 2022-2028, 2030, 2032, 2033, 2034, 2036-2060

Patent Owner has not authenticated Exhibits 2022-2028, 2030, 2032, 2033, 2034, and 2036-2060, nor has Patent Owner established if any of Exhibits 2022-2028, 2030, 2032, 2033, 2034, and 2036-2060 are self-authenticating within the meaning of FRE 902. FRE 901-902.

Exhibits 2040/2041

Exhibits 2040/2041 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.

Exhibit Exhibits 2040/2041 are inadmissible hearsay. FRE 801-802. Patent Owner offers the exhibit for the purpose of establishing the truth of certain matters allegedly asserted therein. Patent Owner Response, pages 18-19.

Exhibits 2022, 2023, 2039, 2042, 2043, 2044, 2045, 2059

Exhibits 2022, 2023, 2039, 2042, 2043, 2044, 2045, and 2059 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 2022, 2023, 2039, 2042, 2043, 2045, and 2059 are inadmissible hearsay. FRE 801-802. Patent Owner offers the exhibit for the purpose of establishing the truth of certain matters allegedly asserted therein. Patent Owner Response, page 21.

Exhibits 2030, 2024, 2025, 2026, 2046

Exhibits 2030, 2024, 2025, 2026, and 2046 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 2030, 2024, 2025, 2026, and 2046 are inadmissible hearsay. FRE

801-802. Patent Owner offers the exhibit for the purpose of establishing the truth of certain matters allegedly asserted therein. Patent Owner Response, pages 44-45.

Exhibit 2055

Exhibit 2055 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 2055 is inadmissible hearsay. FRE 801-802. Patent Owner offers the exhibit for the purpose of establishing the truth of certain matters allegedly asserted therein. Patent Owner Response, page 45.

Exhibits 2047, 2048, 2049, 2050, 2024, 2051, 2052, 2053, 2054, 2056

Exhibits 2047, 2048, 2049, 2050, 2024, 2051, 2052, 2053, 2054, and 2056 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 2047, 2048, 2049, 2050, 2024, 2051, 2052, 2053, 2054, and 2056 are inadmissible hearsay. FRE 801-802. Patent Owner offers the exhibit for the purpose of establishing the truth of certain matters allegedly asserted therein. Patent Owner Response, pages 49-50.

Exhibits 2037/2038

Exhibits 2037/2038 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.

Exhibit Exhibits 2037/2038 are inadmissible hearsay. FRE 801-802. Patent Owner offers the exhibit for the purpose of establishing the truth of certain matters allegedly asserted therein. Patent Owner Response, page 70.

Date: November 17, 2023

Respectfully submitted,

/Daniel Bucca/

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Certificate of Service

Pursuant to 37 C.F.R. § 42.6(e), I hereby certify that on November 17, 2023,
a copy of the foregoing PETITIONER'S OBJECTION TO EVIDENCE IN
PATENT OWNER'S RESPONSE was provided via email to the following:

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