

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

INARI AGRICULTURE, INC.,

Petitioner,

v.

CORTEVA AGRISCIENCE, LLC,

Patent Owner.

PGR2023-00022

Patent No. 11,371,055

** HIGHLY CONFIDENTIAL **

DEPOSITION OF ARON SILVERSTONE, PhD

Wednesday, June 5, 2024

9:02 a.m.

WOLF GREENFIELD & SACKS, PC

600 Atlantic Avenue

Boston, Massachusetts

STENOGRAPHICALLY REPORTED BY:

Deanna J. Dean, RDR, CRR

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Wednesday, June 5, 2024
9:02 a.m.

Deposition of ARON SILVERSTONE, PhD,
held at Wolf Greenfield & Sacks, PC, 600
Atlantic Avenue, Boston, Massachusetts, by
and before Deanna J. Dean, a Registered
Diplomate Reporter, Certified Realtime
Reporter, and Notary Public of the State of
Massachusetts.

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I N D E X

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E X H I B I T S

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1 P R O C E E D I N G S

2 ARON SILVERSTONE,
3 a witness called for examination, having been
4 satisfactorily identified by the production of his
5 driver's license and being first duly sworn by the
6 Notary Public, was examined and testified as
7 follows:

8 EXAMINATION

9 BY ATTORNEY YANG:

10 Q. Good morning, Doctor. My name is Yieyie
11 Yang. I'm from the law firm of Finnegan, counsel
12 for Corteva.

13 You understand that you are testifying in
14 a post-grant proceeding, review proceeding before
15 the United States Patent and Trademark Office
16 today, Case No. PGR2023-00022?

17 A. Yes.

18 Q. And you understand that your testimony
19 today will be transcribed and made public in these
20 proceedings?

21 A. Yes.

22 Q. And you understand that your answers today
23 are under oath?

24 A. Yes.

25 Q. Is there any reason that you cannot

1 provide full and truthful testimony today?

2 **A. No.**

3 **Q. Great.**

4 (Exhibit 1001 is handed to the witness.)

5 **Q. So I'm handing you a document previously**
6 **marked as Exhibit 1001. This is the '055 patent in**
7 **this case. Correct?**

8 **A. Yes, it is.**

9 **Q. Let's turn to page 8.**

10 Actually, maybe there is no page number,
11 but let's go to the front of the document where the
12 figures are.

13 Can you see Figure 2 at the beginning?

14 **A. I see Figure 2, yes.**

15 **Q. And Figure 2 is a sequence alignment,**
16 **amino acid sequence alignment for five proteins:**
17 **AAD-12, tfdA, AAD-2, AAD-1, and tauD. Right?**

18 **A. Yes, I see that.**

19 **Q. Can you see the shaded residues?**

20 **A. I do.**

21 **Q. The shading indicates which residues are**
22 **mostly conserved or strictly conserved across the**
23 **sequences for the three -- for the five proteins.**
24 **Correct?**

25 **A. I see that those that are shaded indicate**

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1 **conservation.**

2 Q. In Figure 2 of the '055 patent, let's
3 please take a look at residues at position --
4 position 71.

5 Can you see the number of amino acids on
6 the top of the alignments?

7 A. **Yes, I see them.**

8 Q. And the one right after 70, that's 71.
9 Right?

10 A. **Yes.**

11 Q. And at position 71, all five sequences
12 have a glutamine. Is that right?

13 A. **Yes, they have a glutamine. It's position**
14 **71.**

15 Q. And the glutamine at position 71 is an
16 example of the strictly conserved residue across
17 all five enzyme sequences. Correct?

18 A. **That's correct. The glutamine is present**
19 **in all five.**

20 Q. Okay. In this figure, Figure 2 of the
21 '055 patent, please turn to residue 74 where you
22 see there are shaded residues at position 74 also.
23 Correct?

24 A. **Let me do this since they don't mark the**
25 **number.**

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1 Q. Yeah.

2 A. So 74 -- so that's where AAD-12 has a
3 threonine and the rest have alanines?

4 Q. Yes.

5 A. That's the residue?

6 Q. Yes.

7 So at position 74, there's conserved
8 alanine in four of the five sequences. Is that
9 right?

10 A. That's correct. Alanine is in four of the
11 five sequences.

12 Q. And they're the same across the four
13 enzymes. Right?

14 ATTORNEY RUTT: Objection. Ambiguous.

15 A. Sorry. What do you mean by --

16 Q. So four of the five sequences here have a
17 conserved alanine. Correct?

18 A. That's correct. Four sequences have an
19 alanine.

20 Q. In Figure 2 of the '055 patent, let's turn
21 to residue 44. You see 40 there. Right?

22 A. Yes.

23 Q. And the fourth one after that, you also
24 see there are shaded residues at this position.
25 Right?

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1 **A. Yes, I see that three of the sequences**
2 **have shaded residues.**

3 Q. And they're conserved as aspartic acid.
4 Right?

5 **A. Yes. Three have aspartic acid, and two**
6 **don't.**

7 Q. In Figure 2 of the '055 patent, let's turn
8 to residue 35. And you can see shaded residues at
9 this position as well. Correct? 35?

10 **A. Yes. At 35, four of the sequences have**
11 **glycine.**

12 Q. So can I say at position 35, there is a
13 conserved glycine in four of the five sequences?

14 **A. Yes, you can say that glycine is present**
15 **in four of the five.**

16 Q. And when glycine is present in four of
17 these five sequences, does it indicate some kind of
18 conserved -- conservation?

19 **A. It's likely that there's conservation**
20 **across these, yes.**

21 Q. At Figure 2 of the -- in Figure 2 of the
22 '055 patent, please turn to residue 25.

23 **A. Okay.**

24 Q. Here at this position, you see shaded
25 residues at this position as well. Right?

1 A. **Yes. Four of the five have the same amino**
2 **acid.**

3 Q. It's leucine. Right? L?

4 A. **Yes.**

5 Q. So at position 25, there is a conserved
6 leucine in four of the five sequences. Correct?

7 A. **Yes, leucine is present in four of the**
8 **five sequences at that position.**

9 Q. And when the amino acid is the same at the
10 same position, it indicates it's conserved in some
11 degree at least. Right?

12 A. **Yes, it indicates that it's -- that it's**
13 **shared. Some -- yes.**

14 Q. Somehow conserved, or somewhat conserved?

15 A. **Yes.**

16 Q. In Figure 2 of the '055 patent, please
17 turn to residue 68.

18 A. **68. Yes.**

19 Q. It's two before 70. Right.

20 A. **Okay.**

21 Q. And here you see shaded residues at this
22 position as well. Right?

23 A. **Yes, there are -- three of the sequences**
24 **share a threonine at this position.**

25 Q. So at this position 68, there is a

1 somewhat conserved threonine in three of the
2 sequence -- five sequences. Right?

3 **A. Yes. Threonine is present in three of the**
4 **five. That's right.**

5 Q. In Figure 2 of the '055 patent, let's turn
6 to residue 178.

7 **A. 178.**

8 Q. It's the third line.

9 **A. Okay.**

10 Q. And you can see shaded residues at this
11 position as well. Right?

12 **A. At 178, three of the sequences have an**
13 **alanine.**

14 Q. So at position 178, there is a somewhat
15 conserved alanine in three of the five sequences.
16 Right?

17 ATTORNEY RUTT: Objection.

18 **A. Yes. The alanine is present in three of**
19 **the five sequences.**

20 Q. Okay. I'm handing you a copy of Exhibit
21 1045.

22 (Exhibit 1045 is handed to the witness.)

23 Q. So could you please confirm this is your
24 reply declaration in this case?

25 **A. Yes, this is my reply declaration.**

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1 Q. How did you prepare your reply

2 declaration, Doctor?

3 A. It was an iterative process, starting with
4 capturing ideas and then back and forth.

5 Q. Did counsel prepare the initial draft?

6 A. No. The initial draft was -- like I said,
7 it was iterative. The initial draft was my ideas.

8 Q. So you drafted the same -- the first
9 draft, right, of your declaration?

10 A. Yeah. I put my first ideas down. I guess
11 it -- yes.

12 Q. Okay. And you revised the declaration
13 through the entire process. Right?

14 A. Yes. There was a series of revisions.

15 Q. Okay. Please turn to paragraph 15 of your
16 declaration.

17 Okay. So just now, just a moment ago, we
18 looked at conserved residues at position 25, 35,
19 44, 68, 71, 74, and 178 in Figure 2 of the '055
20 patent. Right? Just now?

21 A. Yeah. I didn't mark which ones, but I'll
22 take it that, yes, those are the ones that we
23 looked at.

24 Q. Yeah.

25 So in paragraph 15 of your declaration, I

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1 saw that you briefly discussed position 71 of
2 Figure 2 -- right? -- in Figure 2?

3 A. I did mention position 71 of Figure 2.

4 Q. Okay. So in your declaration, did you
5 ever discuss the amino acids at the other positions
6 25, 35, 44, 68, 74, and 178 that we looked at?

7 ATTORNEY RUTT: Objection. Vague.

8 A. I -- this is the only one that I mentioned
9 the number, but we also talked about [REDACTED]
10 [REDACTED] and didn't -- I'd have
11 to look back through this. I don't remember
12 exactly all of the amino acids -- I'd have to look
13 through it again because I haven't reviewed this
14 with specifically thinking about amino acids,
15 specific amino acid positions.

16 So if you want me to spend the time
17 looking through, I can look through and see if this
18 is the only time we talked about conserved
19 positions, or -- do you want me to do that? Or --
20 I can spend a few minutes doing that.

21 Q. My question was did you specifically
22 discuss any of the -- identify or discuss the amino
23 acids we went through just now except for position
24 71 in your declaration?

25 A. And that's what I don't remember exactly,

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1 **that context.**

2 **So I could look through my document to**
3 **see, to answer your question, but I don't remember**
4 **specifically, you know, every, you know, word for**
5 **word what I wrote.**

6 Q. Okay. Let me see how long is the
7 declaration. It's not super long.

8 Can you please quickly review your
9 declaration to refresh your recollection on this.
10 And let's just start with paragraph 1 and until
11 your signature, to see whether you have the same
12 level of discussion of the other positions like
13 what you discuss in paragraph 15 for position 71.

14 ATTORNEY RUTT: Objection. Compound.

15 Q. Again, just to remind you, I'm talking
16 about positions 25, 35, 44, 68, 74, and 178.

17 A. **I did not in the text, but in the SIFT**
18 **output table -- I think it's Appendix B -- I do**
19 **list all of those and list possible variants in**
20 **output from the SIFT analysis.**

21 Q. But you did not discuss those in your
22 text. Correct?

23 ATTORNEY RUTT: Objection.

24 A. **That's --**

25 ATTORNEY RUTT: Vague.

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1 **A. Yes, I did not mention their numbers in**
2 **the text.**

3 Q. Great. Thank you.

4 Let's turn to paragraph 2 of your
5 declaration. Here you have a chart containing
6 materials you considered in forming your opinions
7 in the reply declaration. Right?

8 ATTORNEY RUTT: Objection. Misstates the
9 statement in the reply declaration.

10 **A. This is the materials that I based my**
11 **consideration on.**

12 Q. Did you consider anything else except for
13 the ones in your chart?

14 **A. The patent, '055 patent, which I refer to,**
15 **was left off that list. Obviously, I referred to**
16 **and mentioned in paragraph 1.**

17 And the Elkin paper, which I refer to, is
18 also off this list.

19 Q. Okay. In your chart here, you stated that
20 you considered Exhibits 205 -- sorry. Strike
21 that -- Exhibits 2085, 2089, 2092, and 2095.
22 Right?

23 **A. Yes, I list those exhibits.**

24 Q. Okay. I'm handing you a document which is
25 a exhibit list in this case.

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1 Have you seen this exhibit list before?

2 **A. I don't know. I have looked at various**
3 **exhibit lists, and I don't want to misspeak.**

4 Q. This is the patent owner's updated exhibit
5 list, just to be clear, on the cover.

6 **A. Yeah. I -- I don't remember.**

7 Q. Okay. So in the exhibit list, let's turn
8 to the last page.

9 **A. Page --**

10 Q. Page 7.

11 **A. -- 7?**

12 Q. Yeah. Here you see multiple exhibits
13 marked as Confidential - Protective Order Material
14 on this page?

15 **A. I see those.**

16 Q. Are those exhibits numbered Exhibit 2084
17 all the way to 2095?

18 **A. Yes, they are.**

19 Q. So I'm just wondering -- sorry. I just
20 cut it off. Strike that.

21 Do Exhibits 2084, 2085, 2091, 2092, 2093,
22 and 2094, do they all have the same title?

23 **A. I'm sorry. Could you repeat them?**

24 Q. 2084, 2085, 2090, 2091, 2092, 2093, and
25 2094.

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1 **A. I see on this list that they all have the**
2 **same title.**

3 Q. You have considered Exhibits 2085 and
4 2092, but did not consider Exhibits 2084, 2090,
5 2091, 2093, and 2094. Correct?

6 ATTORNEY RUTT: Objection.

7 **A. The ones listed in my reply declaration**
8 **are the ones that I considered in crafting the**
9 **reply declaration.**

10 Q. So does it mean that exhibits 2084, 2090,
11 2091, 2093, 2094, those ones, you did not consider
12 in drafting your declaration. Correct?

13 ATTORNEY RUTT: Objection. Foundation.

14 **A. I did not think that they were relevant to**
15 **my declaration, to what I wrote in the declaration.**

16 Q. Did you review those exhibits?

17 **A. I did review those exhibits, but I did not**
18 **consider them relevant to my reply declaration.**

19 Q. When you review those exhibits, do those
20 exhibits contain any data?

21 ATTORNEY RUTT: Objection. He doesn't
22 have the exhibits in front of him.

23 **A. Yeah, I don't remember what is in those**
24 **exhibits. So I can't answer that question.**

25 Q. Okay. So you picked the exhibits to put

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1 in your chart. It's your own decision. Right?

2 ATTORNEY RUTT: Objection. Vague.

3 Q. You were provided all the exhibits here.
4 Correct?

5 ATTORNEY RUTT: Objection. Vague.

6 Q. You were provided exhibits 2084 all the
7 way to 2095. Correct? You have seen them all?

8 **A. I have seen all those exhibits, but I only**
9 **used those exhibits that I thought were relevant to**
10 **my reply declaration.**

11 Q. So you make the decision to pick the ones
12 to put in your chart. It's your own decision.
13 Correct?

14 **A. Yes, that is my decision on what is**
15 **relevant to the reply declaration.**

16 Q. Again, back to the exhibit list on this
17 page. Do Exhibits 2086, 2087, and 2089 have the
18 same title?

19 **A. I'm sorry. Could you repeat that again?**

20 Q. 2086?

21 **A. Yes.**

22 Q. 2087?

23 **A. Yes.**

24 Q. And 2089?

25 **A. Yes.**

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1 Q. Do they all have the same title?

2 A. They all have the same title.

3 Q. You considered Exhibit 2098 but did not
4 review or consider Exhibits 2086 and 2087.
5 Correct?

6 ATTORNEY RUTT: Objection. Misstates the
7 witness's testimony.

8 A. I considered for my reply declaration only
9 2089 because that was the only one relevant to my
10 reply declaration.

11 Q. Okay. So it's the same answer just now.
12 You reviewed the exhibits, but you did not consider
13 them being relevant to your declaration. Correct?

14 A. Yes. I reviewed the exhibits but they
15 were not -- not everything I reviewed was relevant
16 to the reply declaration.

17 Q. Okay. You also mentioned in your
18 paragraph -- I'm sorry -- in your chart in
19 paragraph 2 of your declaration, you say -- here
20 you said you considered portions of Dr. Bollinger's
21 deposition transcript, which is Exhibit 1043, cited
22 in your declaration. Correct?

23 A. That is correct. I cite portions of his
24 transcript.

25 Q. Well, I only saw citations to -- the only

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1 citation I saw to Exhibit 1043 is in paragraph 16
2 of your declaration.

3 So in the middle of the paragraph, I see a
4 citation to Exhibit 1043, page 159, line 22, to
5 page 160, line 7.

6 Do you see that?

7 **A. I see that.**

8 Q. You can check your declaration for sure,
9 you know. We have the time. But this is the only
10 portion of the Dr. Bollinger's deposition
11 transcript I saw that has been cited here.

12 So is this the only portion of the
13 deposition transcript you considered when you were
14 drafting your reply declaration?

15 **A. I'm just checking to make sure.**

16 Q. Yeah, sure.

17 **A. Sorry. So could you repeat the question?**

18 Q. The question is was the page 159, line 22,
19 to page 160, line 7, was the only portion of
20 Dr. Bollinger's deposition transcript that you
21 considered when you drafted your reply declaration?

22 **A. Yes. So that was the portion of his**
23 **deposition that I considered in writing my reply**
24 **declaration.**

25 Q. Okay. How did you prepare for this

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1 deposition?

2 **A. I reviewed my reply declaration as well as**
3 **reviewing the materials that I cited in my -- in my**
4 **exhibit list, in addition to the patent which I**
5 **mentioned was missing from the list, and had**
6 **discussions with Mr. Rutt.**

7 Q. You mentioned you additionally reviewed
8 the '055 patent. Right?

9 **A. I looked at the relevant sections of the**
10 **'055 patent that I cite --**

11 Q. When you were preparing for your
12 deposition?

13 **A. -- that I cited in the -- in the -- in my**
14 **reply declaration.**

15 Q. Did you cite to the patent in your
16 declaration?

17 **A. I referred to it at the begin --**

18 Q. Figure 2?

19 **A. Figure 2, yes.**

20 Q. Okay. Got it.

21 Did you review any additional documents
22 not mentioned just now in your deposition
23 preparation?

24 **A. No. For -- just these documents.**

25 Q. There's another paper you mentioned just

1 now. Right? The Elkins paper?

2 A. Oh. The -- sorry. The Elkins paper,
3 which should have been on my exhibition list that I
4 cite in my reply declaration.

5 Q. Okay. And no other papers?

6 A. And no other papers.

7 Q. The paper you mentioned just now, Elkins
8 paper, is it one exhibit in this proceeding or is
9 it additional?

10 A. It's an exhibit in the proceedings that's
11 already been --

12 Q. In the record?

13 A. -- in the record, yes.

14 Q. And it was cited by you earlier or by
15 Dr. Bollinger?

16 A. It was cited by me in my original
17 declaration, and I don't remember if it was cited
18 by Dr. Bollinger. I don't know.

19 Q. Okay. So you did not review anything that
20 was not -- has not been submitted in this PGR
21 proceeding. Right?

22 A. That is correct.

23 Q. Okay. Let's come back to your
24 declaration.

25 So let's turn to paragraph 3. Here you

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1 mention that Exhibits 2085, 2089, and 2095 describe

2 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]. Right?

3 A. Yes.

4 Q. You mention that [REDACTED] [REDACTED] [REDACTED] [REDACTED]

5 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

6 [REDACTED] [REDACTED] [REDACTED] [REDACTED]. Correct?

7 A. Yes, that is correct.

8 Q. [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

9 [REDACTED] [REDACTED] [REDACTED] Correct?

10 ATTORNEY RUTT: Objection. Misstates the
11 testimony.

12 A. [REDACTED].

13 Q. Yeah. Let's go to the next page.

14 Paragraph 5 of your declaration.

15 A. Okay.

16 Q. [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

17 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] Right? [REDACTED]

18 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

19 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

20 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

21 [REDACTED] [REDACTED] [REDACTED] Right?

22 A. Yes. [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 Q. Okay. And let's turn to page 4 of your

1 declaration, paragraph 7.

2 In this slide, there's a slide you copied
3 on this paragraph. Right?

4 A. Yes. There's a slide that I copied from
5 Exhibit 2092.

6 Q. And [REDACTED]
7 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
8 Correct?

9 A. Yes. [REDACTED]
10 [REDACTED]

11 Q. Okay. Let's turn to page 5 of your
12 declaration, paragraph 8.

13 Here you copy another slide from Exhibit
14 1092. Correct?

15 A. From Exhibit 2092.

16 Q. Oh, sorry. 2092.

17 A. Yes, there's a slide from Exhibit 2092.

18 Q. And [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
19 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] Correct?

20 A. [REDACTED]
21 [REDACTED]
22 [REDACTED].

23 Q. And let's turn to page 9 -- I'm sorry --
24 paragraph 9 on this same page.

25 Here in this paragraph, [REDACTED] [REDACTED] [REDACTED] [REDACTED]

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1 [REDACTED]

2 [REDACTED] Correct?

3 A. Yes. [REDACTED]

4 [REDACTED].

5 Q. [REDACTED]

6 [REDACTED]

7 Right?

8 A. That is correct. [REDACTED]

9 [REDACTED].

10 Q. [REDACTED]

11 [REDACTED] Correct?

12 A. [REDACTED]

13 [REDACTED]. That's correct.

14 Q. Please retrieve the patent in this case,
15 Exhibit 1001.

16 A. Okay.

17 Q. Let's turn to the claim set, which is, I
18 guess, at the end of the document.

19 A. Do you have a page number?

20 Q. It's column 125.

21 A. 125.

22 Q. Do you see Claim 1 on this page?

23 A. I see Claim 1.

24 Q. Could you please read the Claim 1 until
25 where it said "AAD-12 protein comprises." You can

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1 stop there.

2 Could you please read the first --

3 **A. First paragraph?**

4 **Q.** Yeah.

5 **A. "A transgenic plant cell comprising a**
6 **recombinant polynucleotide that encodes an AAD-12**
7 **protein that exhibits aryloxyalkanoate dioxygenase**
8 **activity, wherein said activity enzymatically**
9 **degrades a phenoxy auxin herbicide and a pyridyloxy**
10 **auxin herbicide, further wherein --**

11 **Q.** Okay. Stop there.

12 **A. Okay.**

13 **Q.** Thank you.

14 So based on the claim language here, does
15 Claim 1 require any specific catalytic rate for
16 degrading a phenoxy auxin herbicide?

17 ATTORNEY RUTT: Objection. Scope.

18 **A. It does not list a rate in Claim 1.**

19 **Q.** Does Claim 1 list any specific catalytic
20 rate for degrading a pyridyloxy auxin herbicide?

21 **A. It does not list a rate for a pyridyloxy**
22 **auxin herbicide.**

23 **Q.** Does Claim 1 list any other specific level
24 of activity for degrading a phenoxy auxin herbicide
25 or a pyridyloxy auxin herbicide?

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1 **A. It does not list a required level for**
2 **degrading either a phenoxy auxin herbicide or a**
3 **pyridyloxy auxin herbicide.**

4 Q. Does Claim 1 require the AAD-12 protein to
5 have a greater level of activity for degrading a
6 phenoxy auxin herbicide as to compare -- as
7 compared to any other protein?

8 ATTORNEY RUTT: Objection. Scope.

9 **A. Could you restate the question?**

10 Q. Does Claim 1 require the AAD-12 protein to
11 have a greater level of activity for degrading a
12 phenoxy auxin herbicide as compared to any other
13 protein?

14 **A. Claim 1 does not list any other protein in**
15 **comparison to the AAD-12 protein.**

16 Q. Does Claim 1 require the AAD-12 protein to
17 have a greater level of activity for degrading
18 pyridyloxy auxin herbicide as compared to any other
19 protein?

20 ATTORNEY RUTT: Objection. Scope.

21 Compound.

22 **A. It does not list a requirement for AAD-12**
23 **to be -- have a higher -- or have different**
24 **pyridyloxy auxin herbicide degrading activity than**
25 **any other protein.**

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1 Q. Does Claim 12 require AAD-12 protein have
2 a higher level of activity for degrading the
3 herbicide 2,4-D as compared to any other protein?

4 A. It does not -- Claim 1 does not require
5 AAD-12 to have a higher protein -- a higher
6 degrading activity for 2,4-D compared to any other
7 protein.

8 Q. Does Claim 1 require the AAD-12 protein to
9 have a higher level of activity for degrading the
10 herbicide Triclopyr as compared to any other
11 protein?

12 A. Claim 1 does not require AAD-12 protein to
13 have a higher level of degrading Triclopyr compared
14 to any other protein.

15 Q. Let's turn to Claim 6 of the patent, the
16 '055 patent.

17 So here, Claim 6 says the herbicide is
18 selected from the group consisting of
19 2,4-dichlorophenoxyacetic acid, and MCPA. Correct?

20 A. That is correct.

21 Q. So the 2,4-dichlorophenoxyacetic acid is
22 2,4-D. Correct?

23 ATTORNEY RUTT: Objection. Foundation.
24 Way outside the scope.

25 A. Yes, that is one of the -- that is the

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1 **full name of 2,4-D.**

2 Q. Does Claim 6 require any specific level of
3 activity for degrading 2,4-D?

4 A. **No, Claim 6 does not require any specific**
5 **level of activity for degrading 2,4-D.**

6 Q. Does Claim 6 require any specific level of
7 activity for degrading MCPA?

8 ATTORNEY RUTT: Objection. Foundation.

9 A. **Claim 6 does not require a specific level**
10 **for degrading MCPA.**

11 Q. Please turn to Claim 8. It says that the
12 herbicide is selected from the group consisting of
13 Triclopyr and fluroxypyr. Right?

14 A. **Yes, it says that.**

15 Q. Does Claim 6 require any specific level of
16 activity for degrading Triclopyr?

17 ATTORNEY RUTT: Objection. Form. Scope.

18 A. **Claim 8 does not require a level for -- of**
19 **activity for degrading Triclopyr.**

20 Q. Does Claim 6 require any specific level of
21 activity for degrading fluroxypyr?

22 A. **Claim 8 does not require specific --**

23 Q. I'm sorry. Claim 6.

24 A. **Claim 6.**

25 Q. Yeah?

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1 A. **Claim 6 or Claim 8?**

2 Q. Claim 8. Sorry.

3 A. **Claim 8 does not require a level for**
4 **degrading fluroxypyr.**

5 Q. I need to correct my mistake right now.
6 By Claim 6, I mean Claim 8 when I was talking about
7 Triclopyr.

8 So you understand that. Right?

9 A. **Yes.**

10 Q. Okay. Your declaration in this -- your
11 reply declaration, did you identify any '055 patent
12 claims that require specific levels of dual
13 herbicide degrading activity?

14 ATTORNEY RUTT: Objection. Scope.

15 A. **In my declaration, I did not mention any**
16 **required level of -- of auxin herbicide degrading**
17 **activity.**

18 Q. Required by the patent claims. Right?

19 A. **Required -- yes, required by the patent**
20 **claims.**

21 Q. Okay. Let's turn to paragraph 10 of your
22 declaration.

23 ██

24 ██

25 ██ Right?

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1 A. That is correct. [REDACTED]

2 [REDACTED]

3 [REDACTED].

4 Q. [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

5 [REDACTED] [REDACTED]?

6 ATTORNEY RUTT: Objection. Scope.

7 A. [REDACTED]

8 [REDACTED].

9 Q. [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

10 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]?

11 ATTORNEY RUTT: Objection. Scope.

12 A. I do not remember. [REDACTED]

13 [REDACTED].

14 Q. You did not consider that. Right?

15 ATTORNEY RUTT: Objection. Foundation.

16 A. I -- I did not include that in my reply
17 declaration. That is correct.

18 Q. I'm asking the question because I'm just
19 curious about the thoughts behind your testimony
20 here.

21 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

22 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

23 [REDACTED] [REDACTED]

24 ATTORNEY RUTT: Objection. Form.

25 A. [REDACTED]

1 [REDACTED]

2 [REDACTED]

3 [REDACTED] [REDACTED]

4 Q. [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

5 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]?

6 ATTORNEY RUTT: Objection. Form.

7 A. [REDACTED]

8 [REDACTED].

9 Q. Would changing a negatively charged amino
10 acid to [REDACTED] change the folding of a protein?

11 ATTORNEY RUTT: Objection. Scope. Form.

12 A. The primary sequence of a protein has
13 impact on the folding, and any changes you make can
14 impact folding. [REDACTED]

15 [REDACTED]

16 [REDACTED].

17 Q. [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

18 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]. Correct?

19 A. That is correct. [REDACTED]

20 [REDACTED]

21 [REDACTED].

22 Q. [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]?

23 ATTORNEY RUTT: Objection. And I'll
24 counsel you not to disclose any privileged
25 communications.

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1 A. It's -- when drafting the declaration, I
2 wanted -- of course, I had more ideas, but I wanted
3 a focused declaration. So -- instead of having
4 every single idea under the sun that I had.

5 And so that's why my declaration looks the
6 way it does is because I wanted to focus it and not
7 have a 100-page declaration, but to focus on the
8 issues that I list in my declaration.

9 Q. Let's turn to paragraph 11 of your
10 declaration, the next paragraph. [REDACTED]

11 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
12 [REDACTED] [REDACTED] [REDACTED]. Correct?

13 A. Yes.

14 Q. [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
15 [REDACTED] [REDACTED] [REDACTED]?

16 ATTORNEY RUTT: Objection. Scope. Form.

17 A. [REDACTED]
18 [REDACTED]. [REDACTED]
19 [REDACTED]
20 [REDACTED].

21 Q. [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
22 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

23 A. That is correct. [REDACTED]
24 [REDACTED]

25 Q. [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]?

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1 ATTORNEY RUTT: Objection. I'll counsel
2 you again not to disclose the communications you
3 had with counsel.

4 A. So, once again, this was an attempt to
5 have a focused declaration. [REDACTED]

6 [REDACTED].

7 Q. Okay. Let's turn to paragraph 12 of your
8 declaration, which is on the same page.

9 Do you see paragraph 12 of your
10 declaration?

11 A. I see paragraph 12.

12 Q. [REDACTED]

13 [REDACTED]

14 Right?

15 A. [REDACTED] --

16 Q. [REDACTED].

17 A. [REDACTED].

18 Q. And in paragraph 13 of your declaration,

19 [REDACTED]

20 [REDACTED] Correct?

21 A. [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 Q. [REDACTED]

25 [REDACTED]

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1 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] Right?

2 A. That is correct. [REDACTED]

3 [REDACTED].

4 Q. [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

5 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

6 [REDACTED]?

7 ATTORNEY RUTT: Objection. And, again,
8 I'll counsel you not to disclose communications
9 you had with counsel.

10 A. Once again, this was for -- to make my
11 declaration specific and focused.

12 Q. [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

13 [REDACTED]?

14 A. [REDACTED]

15 [REDACTED].

16 Q. The answer is yes, you did?

17 A. Yes, I -- yeah.

18 Q. You picked --

19 A. [REDACTED]

20 [REDACTED].

21 Q. Okay. So before you got involved in this
22 case, have you used any SIFT program in any of your
23 own research?

24 A. In -- there are a number of tools that
25 allow you to analyze proteins, and I had not used

1 **SIFT specifically, but I had used other tools in my**
2 **research to analyze protein sequence.**

3 Q. So the only time you used SIFT analysis is
4 for this case. Correct?

5 A. Yes, this was the only time that I used
6 the SIFT tool. But like I said, there were many
7 tools that do this type of analysis.

8 Q. Let's turn to paragraph 16 of your
9 declaration.

10 So in this paragraph, you identify a link
11 to a SIFT website. Correct?

12 A. That is correct. I have a link to the
13 SIFT website, a current link to the SIFT.

14 Q. And it's a UTR link. Right? The -- you
15 list a link to the website. It's an HTTPS link?

16 A. Yes, that's correct. It's a HTTPS link.

17 Q. And there's SG at the end of the link.
18 Do you see that?

19 A. I see that.

20 Q. Does it refer to Singapore?

21 A. I --

22 ATTORNEY RUTT: Objection.

23 A. I don't know. I'm not --

24 (Exhibit 2097 is handed to the witness.)

25 Q. I'm handing you a document marked as

1 Exhibit 2097.

2 ATTORNEY RUTT: Objection. This is
3 improper surreply evidence. It's late-filed,
4 it's not relevant, it's not properly
5 authenticated, and it's hearsay to the extent
6 Corteva is relying on it for the truth of the
7 matter. It's beyond the scope and it's not been
8 previously reviewed by the witness.

9 Q. So is this a website you identify in
10 page 16 of your declaration?

11 If you go to the bottom of the page on the
12 left corner, the link you provided in your
13 declaration, does it match?

14 ATTORNEY RUTT: Objection. Foundation.

15 **A. The name of the website is -- I mean, the**
16 **HTTPS address for the website is the same as the**
17 **one that I list in my declaration.**

18 Q. Okay. And come back to the page. The
19 last line on this page, it says, "Server support by
20 Bioinformatics Institute in Singapore."

21 Do you see that?

22 **A. I see that.**

23 Q. Do you regularly refer to Singapore
24 websites in your work?

25 **A. In my work, I do not focus on the**

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1 **locations of a website.**

2 Q. Where did you find this link?

3 A. **I was interested in using the SIFT tool.**

4 **So I searched for it and this is what I found.**

5 Q. You found the link on your own. Right?

6 A. **Yes. Yes, I found the link on my own.**

7 Q. Did you create the SIFT output attached to
8 your declaration as Appendix B?

9 A. **I took the output from SIFT and created
10 the table from the output.**

11 **(Exhibit 2044 is handed to the witness.)**

12 Q. I'm handing you a document marked Exhibit
13 2044.

14 ATTORNEY RUTT: Is this a new exhibit?

15 ATTORNEY YANG: No. You can check exhibit
16 list.

17 ATTORNEY RUTT: So I'll object because
18 it's outside the scope.

19 Q. So this -- let's turn to page -- the last
20 page of the document. Sorry. The font is kind of
21 small. Page 7 of the document.

22 It's an article titled "SIFT: predicting
23 amino acid changes that affect protein function."
24 Right?

25 A. **I see the title, yes.**

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1 Q. Have you ever reviewed this publication?

2 A. I have not reviewed this publication.

3 Q. At end of the abstract, you see there's a
4 UTR, a link for SIFT program in this article.
5 Right? The bottom abstract.

6 A. I see the link at the end of the abstract.

7 Q. And the SIFT URL, the SIFT link in Exhibit
8 2044 is different from the one you identified in
9 paragraph 16 of your declaration. Correct?

10 A. That is correct. This is a different
11 link.

12 Q. Did you do any investigation to see if the
13 two different links provide the same output when
14 you use the same sequences as inputs?

15 A. I had not reviewed this document. And I
16 see it's from 2003, so I don't even know if this
17 website is still active.

18 Q. Did you do any investigation to see if any
19 changes were made -- strike that.

20 So you don't know what the program looks
21 like today. Right?

22 ATTORNEY RUTT: Objection. Vague.
23 Foundation.

24 A. I only used the website that I cited. I
25 can't speak to any other SIFT website, if there are

1 **others.**

2 Q. So you did not compare the program
3 described in Exhibit 2044 with the one you used in
4 your declaration. Correct?

5 A. **I did not use the website listed -- or try**
6 **to use the website listed in this exhibit.**

7 Q. Do you know if you used two different SIFT
8 programs, would you always get the same output by
9 inserting -- inputting the same sequences?

10 ATTORNEY RUTT: Objection. Form. Scope.

11 A. **I -- if people have changed programs, I**
12 **suppose -- anything -- I -- you could, but I**
13 **don't -- I haven't -- I'm not a bioinformatics**
14 **person. I didn't test different SIFT websites. I**
15 **just used one SIFT website.**

16 Q. And you don't know if the one you used is
17 representative of the SIFT programs existing as of
18 today. Right?

19 A. **I don't know if it's -- I assumed it's**
20 **representative since it's maintained by an**
21 **institute.**

22 Q. In Singapore. Right?

23 A. **It's -- there are many tools. I don't**
24 **limit my use of tools to one location.**

25 Q. Back to the article in Exhibit 2044.

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1 In the right-hand column, do you see
2 there's a header "SIFT Prediction Method"?

3 ATTORNEY RUTT: Objection. Scope. He
4 hasn't reviewed this document.

5 **A. I see the title "SIFT Prediction Method,"**
6 **but I have not reviewed this document.**

7 Q. Here in this -- under this header, the
8 articles states that "SIFT presumes that important
9 amino acids will be conserved in the protein
10 family, and so changes at well-conserved positions
11 tend to be predicted as deleterious. For example,
12 if a position in an alignment of a protein family
13 contains only the amino acid isoleucine, it is
14 presumed that substitution to any other amino acid
15 is selected against that and that isoleucine is
16 necessary for protein function."

17 Do you see that?

18 ATTORNEY RUTT: Objection. Form.

19 **A. I see that sentence.**

20 Q. In other words, strictly conserved
21 residues like the isoleucine in this example are
22 presumed necessary for function. Right?

23 ATTORNEY RUTT: Objection. He hasn't
24 reviewed this document. You didn't give him
25 time to look at it.

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1 Q. Please turn to your Appendix B of your
2 declaration.

3 What is Appendix B?

4 A. Appendix B is the SIFT output when I put
5 the five sequences that I listed in -- I'm trying
6 to see which paragraph that I mentioned.
7 Paragraph 16 -- yes, paragraph 16, where I mention
8 I used the five sequences in Figure 2 of the '055
9 patent. And then this was the -- from the SIFT
10 output, I created this table, Appendix B.

11 Q. Okay. So Appendix B, there are different
12 columns. Right?

13 A. Yes.

14 Q. And the residue numbering in the position
15 column is for AAD-12, SEQ ID No. 2 in the patent.
16 Correct?

17 A. Yes.

18 Q. Let's look at position 110 as an example.

19 ATTORNEY RUTT: Counsel, is this a good
20 time to take a break?

21 ATTORNEY YANG: Oh, sure.

22 ATTORNEY RUTT: There's going to be a fire
23 drill.

24 ATTORNEY YANG: Yes. I was wondering
25 about that too. Yes.

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1 ATTORNEY RUTT: Okay. Let's take a break.

2 (Recess taken from 9:58 a.m.
3 to 10:23 a.m.)

4 BY ATTORNEY YANG:

5 Q. Welcome back, Doctor.

6 A. **Thank you.**

7 Q. Okay. So let's go back to your
8 declaration, Appendix B.

9 A. **Okay. Appendix B.**

10 Q. Yeah. Let's turn to Appendix B, page 5.

11 A. **Page 5.**

12 Q. Mm-hmm. Here in the position column, do
13 you see amino acid in position 110D?

14 A. **Yes. 110, amino acid D.**

15 Q. 110D?

16 A. **Yes.**

17 Q. Does SIFT indicate that the residue at
18 position 110 could tolerate changes, or would that
19 affect function?

20 A. **SIFT predicted that it would not be
21 tolerant of any changes.**

22 Q. Let's turn to position 135 at the bottom
23 of the page.

24 A. **At the bottom. I see 135.**

25 Q. Does SIFT indicate the residue at the

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1 position 135 could tolerate changes, or would that
2 affect function?

3 **A. SIFT predicted that at position 135, it**
4 **would not tolerate any changes.**

5 Q. And when you make a change to the amino
6 acid at its position, it may affect the function of
7 the enzyme. Correct?

8 ATTORNEY RUTT: Objection. Foundation.
9 Form.

10 **A. It might affect the activity.**

11 Q. Let's turn to position 262, which is
12 page 10.

13 **A. I see 262.**

14 Q. Does SIFT indicate that the residue at
15 positions 262 could tolerate changes, or would that
16 affect function?

17 **A. SIFT indicated that it would not tolerate**
18 **any changes.**

19 Q. At position 262?

20 **A. At position 262.**

21 Q. Okay. Let's turn to position 273.

22 **A. 273.**

23 Q. Mm-hmm.

24 Did SIFT indicate that the residue at
25 position 273 could tolerate changes, or would that

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1 affect function?

2 **A. SIFT predicted that it would not tolerate**
3 **any changes.**

4 Q. At position 2 --

5 **A. At position 273.**

6 Q. Now, let's turn back to position 108,
7 which is on page 4 of Appendix B.

8 **A. Okay. Position 108.**

9 Q. Does -- did SIFT indicate that the residue
10 at position 108 could tolerate changes, or would
11 that affect function?

12 **A. SIFT predicted that at position 108, it**
13 **would not tolerate any changes.**

14 Q. No further questions, Doctor.

15 **A. Okay.**

16 ATTORNEY RUTT: I have some questions, but
17 I'd like to take a break to organize my
18 thoughts.

19 ATTORNEY YANG: Sure.

20 And approximately how long do you think
21 you'll have?

22 ATTORNEY RUTT: 10 minutes.

23 ATTORNEY YANG: Okay.

24 (Recess taken from 10:28 a.m.
25 to 10:44 a.m.)

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1 EXAMINATION

2 BY ATTORNEY RUTT:

3 Q. Welcome back, Dr. Silverstone.

4 A. **Thank you.**

5 Q. Do you recall discussing the SIFT website
6 listed in Exhibit 2044?

7 A. **Yes, I do.**

8 Q. And you recall you had testified that you
9 weren't sure if the URL listed in this 2003 article
10 was still active?

11 A. **Yes, I remember saying that.**

12 Q. So I'll represent to you, when I just
13 tried to visit that website, I got an error
14 message. And my question to you is whether you
15 know when that website was shut down.

16 A. **I do not know. I have not tried to access
17 that specific website listed in Exhibit 2044.**

18 Q. Do you recall you also -- counsel asked
19 you about whether you had reviewed the '055 patent
20 to prepare for today's deposition?

21 A. **I do remember when counsel asked that.**

22 Q. And had you reviewed Example 5 to prepare
23 for today's deposition?

24 It's at columns 45 to 46.

25 ATTORNEY YANG: Objection.

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1 A. I'm sorry. Which columns?

2 Q. Column 45 is where Example 5 begins.

3 A. Column 45. Yes, I reviewed Example 5.

4 Q. What relevance does Example 5 have, if
5 any, for your reply declaration?

6 A. The reason I reviewed Example 5 is in --
7 I'm sorry. Let me pull my reply declaration.

8 [REDACTED]

9 [REDACTED]

10 [REDACTED] [REDACTED]

11 [REDACTED]

12 [REDACTED].

13 [REDACTED] [REDACTED]

14 [REDACTED].

15 [REDACTED]

16 [REDACTED]

17 [REDACTED] [REDACTED]

18 [REDACTED].

19 Q. And if you look at Example 5.2, what does
20 that example describe?

21 ATTORNEY YANG: Objection. Form.

22 A. Example 5.2 describes the activity, the
23 method of measuring activity for pyridyloxy auxin
24 herbicides.

25 Q. Do you recall discussing Exhibit 2092

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1 during your deposition today?

2 A. Yes, I do.

3 Q. I'll show you Exhibit 2092.

4 A. Thank you.

5 (Exhibit 2092 is handed to the witness.)

6 Q. [REDACTED]

7 [REDACTED]?

8 ATTORNEY YANG: Objection. Leading.

9 Foundation.

10 ATTORNEY RUTT: Let me finish answering my
11 question.

12 A. So let me look through. [REDACTED]

13 [REDACTED]. [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED].

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 Q. [REDACTED]

21 [REDACTED]

22 ATTORNEY YANG: Objection. Foundation.

23 Leading.

24 A. Example 5.1 described -- is -- describes a
25 method for analyzing the degradation of phenoxy

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1 **auxins.** [REDACTED]

2 [REDACTED]

3 [REDACTED] [REDACTED]

4 [REDACTED]

5 Q. And you recall when counsel asked you
6 whether you had reviewed Exhibit 2088 earlier in
7 your deposition?

8 A. **Yes. I remember talking about review of**
9 **2088.**

10 Q. I'll show you Exhibit 2088.
11 (Exhibit 2088 is handed to the witness.)

12 Q. Are you familiar with Exhibit 2088?

13 A. **So I had initially reviewed 2088, though I**
14 **did not use it for my reply declaration.**

15 Q. [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 ATTORNEY YANG: Objection. Out of scope.
19 Relevance.

20 A. **Let me review 2088.**

21 Q. Take your time.

22 I can rephrase the question if you've
23 forgotten it.

24 A. **Please rephrase the question.**

25 Q. [REDACTED]

1 [REDACTED]

2 [REDACTED]

3 ATTORNEY YANG: Objection. Out of scope.
4 Relevance.

5 A. [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED].

11 Q. Turning back to your reply declaration.
12 Turn to Exhibit -- or Appendix B-5.

13 You recall counsel asked you about
14 position 135T in this appendix?

15 A. Yes.

16 Q. And you recall counsel asked you whether
17 SIFT shows that changes to position 135T would or
18 would not be tolerated?

19 A. I remember the discussion on asking about
20 the meaning of the output of SIFT for position 135.

21 Q. And what does SIFT predict with respect to
22 changes to amino acids at position 135?

23 A. SIFT predicts that a change would not be
24 tolerated.

25 Q. Turn in your declaration to the table you

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1 prepared in paragraph 5.

2 [REDACTED]

3 A. [REDACTED]

4 Q. [REDACTED]

5 A. [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 Q. [REDACTED]

9 [REDACTED]

10 A. I can look at my -- to make sure, at my
11 declaration.

12 [REDACTED]

13 [REDACTED]

14 Q. [REDACTED]

15 [REDACTED]

16 ATTORNEY YANG: Objection. Leading. Out
17 of scope.

18 A. [REDACTED]

19 [REDACTED]

20 Q. And it's in contrast to what Dr. Bollinger
21 testified. Do you recall that?

22 ATTORNEY YANG: Objection. Foundation.

23 A. I remember he talked about that these had
24 to be conserved, but I don't have his declaration
25 in front of me.

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1 Q. So fair to say that even SIFT sometimes is
2 unable to predict activity levels because of the
3 unpredictable nature of this field?

4 ATTORNEY YANG: Objection. Leading.
5 Foundation. Out of scope.

6 A. **SIFT is -- yeah. There is**
7 **unpredictability in that this -- the SIFT analysis**
8 **I did was limited to five proteins, and so the more**
9 **you use, you probably could get better data. But,**
10 **yeah, it shows the limitation of SIFT analysis.**

11 ATTORNEY RUTT: No further questions.

12 ATTORNEY YANG: Counsel, we will probably
13 want to take a break and see whether we have
14 additional reexam questions.

15 So 10 minutes?

16 ATTORNEY RUTT: Sure.

17 ATTORNEY YANG: Thank you.

18 (Recess taken from 10:57 a.m.
19 to 11:09 a.m.)

20 EXAMINATION

21 BY ATTORNEY YANG:

22 Q. So, Dr. Silverstone, during any of the
23 breaks today, did you discuss the substance of the
24 case with your counsel?

25 A. **No, I did not.**

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1 Q. Great.

2 Counsel just asked you a bunch of
3 questions, the patent, '055 patent, including
4 Example 5.

5 Could you confirm that, did you cite to
6 the patent or Example 5 in your declaration?

7 A. Let me pull out my declaration.

8 So I cited -- well, I refer to the patent,
9 of course, in my first paragraph, and then cite the
10 table and the sequence ID from the patent.

11 Q. You did not cite to Example 5 in your
12 declaration. Right?

13 A. I did not cite Example 5 in my
14 declaration.

15 Q. [REDACTED]
16 [REDACTED]

17 A. [REDACTED]
18 [REDACTED]

19 Q. And also, during the earlier section when
20 we discussed the other exhibits containing data
21 that was not in your chart, you mentioned that you
22 did not include them in the chart, including
23 Example 2088.

24 Those examples you did not cite, you think
25 they are irrelevant to your analysis and your

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1 declaration. Correct?

2 ATTORNEY RUTT: Objection. Misstates the
3 testimony. Form.

4 A. I said they were not -- I did not -- that
5 I had -- that I had reviewed them, but I did not
6 find them to be part of the consideration of the
7 points that I make in my reply declaration.

8 Q. Okay.

9 No further questions. Thank you, Doctor.

10 A. Thank you.

11 (Witness excused and deposition concluded
12 at 11:12 a.m.)
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1 CERTIFICATE OF REPORTER

2 I, Deanna J. Dean, Registered Diplomate
3 Reporter, Certified Realtime Reporter, and MA
4 Notary Public, the officer before whom the
5 proceedings were taken, do hereby certify that the
6 foregoing transcript is a true and accurate record
7 of these proceedings; that said proceedings were
8 taken in Stenotype note by me on the 5th of June,
9 2024, starting at 9:02 a.m. and ending at 11:12 a.m.

10 I further certify that present on behalf of
11 Party Inari Agriculture, Inc., was Eric Rutt of
12 Wolf, Greenfield & Sacks, PC, and on behalf of Party
13 Corteva Agriscience, LLC, were Yieyie Yang and Mark
14 Lampert of Finnegan, Henderson, Farabow, Garrett &
15 Dunner LLP.

16 I further certify that I am not related to, nor
17 associated with any of the parties or their
18 attorneys, nor do I have any disqualifying
19 interest, personal or financial, in the actions
20 within.

21 Dated this 5th of June, 2024, in the Commonwealth
22 of Massachusetts.

23 
24 _____

25 My commission expires December 26, 2025

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