UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ALBAUGH, LLC,
Petitioner

v.

BASF SE,
Patent Owner

Case No. PGR2026-00026
Patent No. 12,305,206

DECLARATION OF MATT MALONE

I, Matt Malone, declare and state as follows.

1. My name is Matt Malone. I am over the age of twenty-one years, of sound mind, and competent in all respects to make this Declaration. I have personal knowledge of the facts stated herein, and if called upon to do so, I could and would competently testify hereto.

2. I am the U.S. Local Project Product Manager for Liberty® Herbicide Franchise at BASF Agricultural Solutions US LLC ("BASF"). I am based in BASF's Raleigh office at 2 TW Alexander Drive, Research Triangle Park, North Carolina 27709.

3. In my role, I am responsible for long-term strategy of the BASF glufosinate/L-glufosinate portfolio, including product development and market strategy. I have held positions involving glufosinate and L-glufosinate for three years, and I am familiar with BASF's investments relating to these products, including research, development, regulatory approval, and market stewardship.

4. BASF has invested in glufosinate-based herbicides for many years, including substantial and sustained investment in the development of L-glufosinate ammonium branded products in the United States as an important innovation within this class of herbicides. This investment includes the development of BASF's Liberty® branded products, which is the glufosinate-based herbicide product line.

5. These investments within the United States include extensive research

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and development efforts aimed at improving product performance, selectivity, formulation stability, and application practices, as well as intellectual property protection, regulatory, and commercialization efforts required to bring L-glufosinate-based products to the U.S. market. BASF also conducts extensive research on weed resistance and research trying to combat such resistance.

6. In 2018, BASF SE acquired the glufosinate ammonium business from Bayer, beginning its investment in glufosinate.

7. Glufosinate ammonium ("GA"), also known as racemic Glufosinate ammonium, is an herbicide. It is a chiral molecule racemic mixture 1:1 ratio of L-glufosinate ammonium (L-GA) and D-glufosinate ammonium (D-GA). L-GA is the active isomer of GA. While GA is an effective herbicide, 50% comprises the inactive D-GA isomer. This leads to increased chemical load and substantial costs to manufacturers and growers. Accordingly, many companies have tried and failed to convert GA from a racemic mixture to a resolved isomer herbicide.

8. In 2020, BASF invested in L-GA by acquiring Glu-L™ Technology for synthesizing and formulating L-glufosinate ammonium from AgriMetis, an industry leader in biotechnological innovations for crop protection. This acquisition included the parent patent of U.S. Patent No. 12,305,206. BASF invested significant capital in acquiring the AgriMetis L-GA portfolio reflecting a high level of commitment to the product and its strategic value to U.S. agriculture. After this acquisition, BASF

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invested in continued development of L-GA products and then tested the efficacy and proper implementation of those products in the field. BASF commercialized L-GA containing products after receiving U.S. EPA approval in October, 2024.

9. Glufosinate-based herbicides, including L-GA, play a critical role in modern agricultural systems, particularly as farmers manage weed populations that are resistant to other herbicides.

10. As herbicide resistance continues to increase, responsible stewardship of effective herbicides such as L-GA is important to preserve long-term utility for farmers and the broader agricultural ecosystem. It is essential to ensure that products remain effective, sustainable, and compliant with regulatory and agronomic best practices.

11. BASF actively participates in stewardship of L-GA through education, research, data-driven use recommendations, and collaboration with universities and others. These stewardship efforts are designed to promote appropriate use rates, application timing, tank-mix partners, and resistance-management practices. Proper use of L-GA maximizes the longevity of the herbicide and minimizes resistance development.

12. BASF has made significant investments in the United States focused on understanding how L-GA can be used most effectively and responsibly across different crops and growing regions. These U.S. investments include small-plot

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research to study application parameters, efficacy, crop safety, and environmental considerations of different regions and crops, formulation work identifying proper adjuvants and other herbicide tank mix partners, and investments in cooperative research with third-party partners to characterize herbicide resistance and management. BASF currently conducts small-plot L-GA research in almost every state in the Midwestern United States to evaluate the regional effectiveness and performance of its L-GA-based products under varying environmental, crop, and weed conditions.

13. BASF currently employees approximately 500 employees working on L-GA products based in the United States.

14. BASF formulates its L-GA-based herbicides at facilities in Hannibal, MO; St Joseph, MO; Webster City, IA; and Hampton, IA.

15. BASF works with distributors and retailers in every state in the United States.

16. Over the course of developing, registering, and commercializing L-GA, BASF has invested hundreds of millions of dollars directed to activities in the United States, including research, trials, regulatory interactions, and market support.

17. BASF has invested over $80 million in L-GA formulating capacity in the U.S. since the Liberty acquisition in 2018.

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18. BASF disperses in excess of $100 million annually on marketing and channel partner incentives to U.S. farmers, retailers, and distributors.

19. BASF's investments span years, reflecting BASF's long-term commitment to innovation, stewardship, and U.S. agriculture.

20. BASF's investments in L-GA were made in reliance on the availability and stability of U.S. patent protection to support innovation, regulatory risk-taking, and sustained stewardship. Reliable U.S. patent protection is required to support large scale risk and investment into innovative new technologies like BASF's investments into L-GA innovation that is the subject of this matter.

21. The '206 Patent is part of the intellectual property framework that enables BASF to continue investing in L-GA, including ongoing stewardship and resistance-management efforts that benefit U.S. farmers.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 27, 2026.

Matthew Malone (Apr 27, 2026 16:53:37 EDT)

Matt Malone

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