

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

COMMONWEALTH SCIENTIFIC AND INDUSTRIAL
RESEARCH ORGANISATION,

Petitioner

v.

BASF PLANT SCIENCE GMBH

Patent Owner.

Case PGR2020-00033

Patent 10,301,638

PATENT OWNER EXHIBIT LIST

Exhibit (Ex.)	Description
2001	Complaint for Declaratory Judgement, Docket No. 1 in Case No. 2:17-cv-00503 in the U.S. District Court for the Eastern District of Virginia
2002	CSIRO's Answer To BASF Plant Science, LP's Amended Complaint and CSIRO's, GRDC's and Nuseed Pty Ltd.'s Counterclaims Against BASF Plant Science, LP and Cargill, Inc., Docket No. 56 in Case No. 2:17-cv-00503 in the U.S. District Court for the Eastern District of Virginia
2003	Counterclaimants Commonwealth Scientific and Industrial Research Organisation, Grains Research and Development Corp., and Nuseed Pty Ltd.'s Initial Markman Brief, Docket No. 207 in Case No. 2:17-cv-00503 in the U.S. District Court for the Eastern District of Virginia
2004	Singh et al., U.S. Patent No. 8,106,226 B2 (Jan. 31, 2012)
2005	Exhibit A to CSIRO's Opening Claim Construction Brief, Docket No. 207-1 in Case No. 2:17-cv-00503 in the U.S. District Court for the Eastern District of Virginia
2006	Claim Construction Opinion and Order, Docket No. 274 in Case No. 2:17-cv-00503 in the U.S. District Court for the Eastern District of Virginia
2007	Excerpt from Rebuttal Validity Expert Report of Ljerka Kunst, Ph.D. in Case No. 2:17-cv-00503 in the U.S. District Court for the Eastern District of Virginia (Cover and signature page of report and ¶s 123-136, 9 pages total)
2008	Proponents' Opposition To Opponents' Renewed Motion for Judgment as a Matter of Law Under Fed. R. Civ. P. 50(B) or, in the Alternative, for a New Trial Pursuant to Rule 59(A), Docket No. 871 in Case No. 2:17-cv-00503 in the U.S. District Court for the Eastern District of Virginia
2009	Verdict Form, dated November 1, 2019, Docket No. 788 in Case No. 2:17-cv-00503 in the U.S. District Court for the Eastern District of Virginia
2010	Minutes of Proceedings, dated May 5, 2020, Docket No. 883 in Case No. 2:17-cv-00503 in the U.S. District Court for the Eastern District of Virginia
2011	Petrie et al., U.S. Patent No. 8,809,559 B2 (Aug. 19, 2014)

Exhibit (Ex.)	Description
2012	Declaration of Heike Sederoff, Ph.D., dated December 2, 2020
2013	Williams et al., “Low temperature-induced fatty acid desaturation in <i>Brassica napus</i> : thermal deactivation and reactivation of the process,” <i>Biochimica et Biophysica Acta</i> , 1128:275-279 (1992)
2014	Sarmiento et al., “Oleate desaturation and acyl turnover in sunflower (<i>Helianthus annuus</i> L.) seed lipids during rapid temperature adaptation,” <i>Planta</i> , 205:595-600 (1998)
2015	Iba, “Acclimative Response to Temperature Stress in Higher Plants: Approaches of Gene Engineering for Temperature Tolerance,” <i>Annu. Rev. Plant Biol.</i> , 53:225-245 (2002)
2016	Hugly et al., “Enhanced Thermal Tolerance of Photosynthesis and Altered Chloroplast Ultrastructure in a Mutant of <i>Arabidopsis</i> Deficient in Lipid Desaturation,” <i>Plant Physiol.</i> , 90:1134-1142 (1989)
2017	Hansen et al., “Essential Fatty Acids and Human Nutrition,” <i>J. Am. Med. Assoc.</i> , 132:855-859 (1946)
2018	Hazel, “Thermal Adaptation in Biological Membranes: Is Homeoviscous Adaptation the Explanation?,” <i>Annu. Rev. Physiol.</i> , 57:19-42 (1995)
2019	Yoshida et al., “Bacterial Long-Chain Polyunsaturated Fatty Acids: Their Biosynthetic Genes, Functions, and Practical Use,” <i>Mar. Drugs</i> , 14, 94 (2016)
2020	Sayanova et al., “Eicosapentaenoic acid: biosynthetic routes and the potential for synthesis in transgenic plants,” <i>Phytochemistry</i> , 65:147-158 (2004)
2021	Hu et al., “Species Delimitation and Interspecific Relationships of the Genus <i>Orychophragmus</i> (Brassicaceae) Inferred from Whole Chloroplast Genomes,” <i>Frontiers in Plant Science</i> , 7, 1826 (2016)
2022	Warwick et al., “Phylogeny of tribe Brassiceae (Brassicaceae) based on chloroplast restriction site polymorphisms and nuclear ribosomal internal transcribed spacer and chloroplast <i>trnL</i> intron sequences,” <i>Can. J. Bot.</i> , 83:467-483 (2005)

Exhibit (Ex.)	Description
2023	Hu et al., "Intergeneric hybrids between <i>Brassica napus</i> and <i>Orychophragmus violaceus</i> containing traits of agronomic importance for oilseed rape breeding," <i>Theor Appl Genet</i> , 105:834-840 (2002)
2024	Downey et al., "Genetic Control of Fatty Acid Biosynthesis in Rapeseed (<i>Brassica napus</i> L.)," <i>J. Am. Oil Chem. Soc.</i> , 41:475-478 (1964)
2025	Murphy, "Manipulation of lipid metabolism in transgenic plants: biotechnological goals and biochemical realities," <i>Biochemical Soc. Trans.</i> , 22:926-931 (1994)
2026	Knutzon et al., "Manipulating seed oils for polyunsaturated fatty acid content," pages 287 to 304 in Harwood (Ed.), "Plant Lipid Biosynthesis: Fundamentals and Agricultural Applications," Society for Experimental Biology Seminar Series, Series Number 67, Cambridge Univ. Press (1998)
2027	Gelvin, "Agrobacterium-Mediated Plant Transformation: the Biology behind the 'Gene-Jockeying' Tool," <i>Microbiology And Molecular Biology Reviews</i> , 67:16-37 (2003)
2028	Metz et al., "Production of Polyunsaturated Fatty Acids by Polyketide Synthases in Both Prokaryotes and Eukaryotes," <i>Science</i> , 293:290-293 (2001)
2029	Singh et al., PCT International Application Publication No. WO 2005/103253 A1 (November 3, 2005)
2030	Stefanov et al., "Differential activity of the mannopine synthase and the CaMV 35S promoters during development of transgenic rapeseed plants," <i>Plant Science</i> , 95:175-186 (1994)
2031	Truksa et al., "Molecular analysis of flax 2S storage protein conlinin and seed specific activity of its promoter," <i>Plant Physiology and Biochemistry</i> , 41:141-147 (2003)
2032	Petrie et al., "Metabolic Engineering Plant Seeds with Fish Oil-Like Levels of DHA," <i>PLoS ONE</i> , 7, e49165 (2012).
2033	Declaration of Xiao Qiu, Ph.D. Under 37 C.F.R. § 1.130(a), dated November 27, 2020
2034	Declaration of Dr. Ljerka Kunst in Support of Counterclaimants' Rebuttal Markman Brief, Docket No. 203-1 in Case No. 2:17-cv-00503 in the U.S. District Court for the Eastern District of Virginia

Exhibit (Ex.)	Description
2035	Excerpts from the transcript of the deposition of Dr. Narendra Yadav, Ph.D. dated November 23, 2020
2036	Assignment, recorded in the U.S. Patent & Trademark Office on October 20, 2006 at Reel 018416, Frame 0670, assigning the inventors' rights to U.S. Patent App. Serial No. 10/590,457 to BASF Plant Science GmbH
2037	Moloney et al., "High efficiency transformation of <i>Brassica napus</i> using <i>Agrobacterium</i> vectors," <i>Plant Cell Reports</i> , 8:238-242 (1989)
2038	O'Neill et al., "Natural variation for seed oil composition in <i>Arabidopsis thaliana</i> ," <i>Phytochemistry</i> , 64:1077-1090 (2003)
2039	Hua et al., "Genomic in situ hybridization analysis of <i>Brassica napus</i> x <i>Orychophragmus violaceus</i> hybrids and production of <i>B. napus</i> aneuploids," <i>Plant Breeding</i> , 125:144-149 (2006)
2040	Transcript of Conference Call with the Board and the parties' Counsel in PGR2020-00033 (Dec. 3, 2020)
2041	Written joint research Agreement (37 pages) between Bioriginal and BASF dated July 2002, and Addendum (4 pages) dated October 2005.
2042	Patent Owner Request for a Certificate of Correction (dated April 5, 2021), which includes copies of Papers 19, 21, 26, and Ex. 2041.
2043	Certificate of Correction for U.S. Patent No. 10,301,638 (dated May 18, 2021).

Respectfully submitted,

May 20, 2021

/ Sandip H. Patel, Reg.# 43848 /
 Sandip H. Patel (Reg. No. 43,848)
 spatel@marshallip.com
 Lead Counsel for Patent Owner

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