Filed on behalf of Commonwealth Scientific and Industrial Research Organisation by:

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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.

U.S. Patent No. 10,301,638

Issued: May 28, 2019

PETITION FOR POST-GRANT REVIEW

PURSUANT TO 35 U.S.C. §§ 321-328 AND C.F.R. § 42.200 et seq.

TABLE OF CONTENTS

I.	Introduction1				
II.	I. Mandatory Notices Under 37 C.F.R. § 42.8(A)(1)				
	A. Real Party-In-Interest Under 37 C.F.R. § 42.8(b)(1)				
		1. Related parties			
	B.	Related Matters Under 37 C.F.R. § 42.8(b)(2)5			
		1. Continuation applications5			
		2. Disputes between the parties			
	C. Lead and Back Up Counsel Under 37 C.F.R. § 42.8(b)(3)				
	D.	Service Information Under 37 C.F.R. § 42.8(b)(4)7			
III.	II. Additional Requirements				
	A.	Payment of Fees Under 37 C.F.R. § 42.157			
	B.	Timing Under 37 C.F.R. § 42.2027			
	C.	Grounds for Standing Under 37 C.F.R. § 42.204(a)8			
IV.	Technology Background				
	A.	Fatty acid nomenclature8			
	B.	Fatty acid biosynthesis11			
		1. The aerobic biosynthetic pathway12			
		2. Transformation of plants with binary vectors			
	C.	Triacylglycerides and the fatty acid composition of plants14			
V. Summary of the '638 Patent					
	A.	The disclosure of the '638 Patent and its priority applications15			
		1. The disclosure of the '638 Patent15			
		2. The disclosure of the priority applications			
	 B. The disclosure of the '638 Patent compared to the disclosure of al., PCT International Application Publication No. WO 2005/08 A2, published September 9, 2005 				
		 Binary vectors used for transformation of plant cells			

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Petition for Post-Grant Review of U.S. Patent No. 10,301,638

		2.	The '638 Patent recites in claims 18-23 the same codon-optimized $\Delta 5$ elongase that was disclosed in the earlier '093 publication24		
		3.	Lipids produced by transformed plants24		
	C.	Exa	mination of the '638 Patent25		
		1.	No statement of support was provided for the claims filed with the application		
		2.	There is no record of the Examiner analyzing the Written Description or Enablement of the claims during prosecution26		
		3.	There is no record of the Examiner analyzing Enablement provided by the disclosure of the '638 Patent when accepting PO's arguments that the disclosure of WO 2005/083093 did not enable certain claimed features		
VI.			t of the Precise Relief Requested and the Reasons Therefor Under 37 42.22(A) and 37 C.F.R. § 42.204(b)		
	A.	Clai	im Construction (37 C.F.R. § 42.204(b)(3))		
	B.	Pers	son of Ordinary Skill in the Art		
VII. The '638 Patent is PGR Eligible					
	A.	The	'638 Patent should have been examined under the AIA40		
	B.	The	Priority Applications Lack Written Description Support41		
		1.	Legal Standard for Written Description41		
		2.	Ground 1: No Written Description for oils, lipids and/or fatty acids produced by a transgenic <i>Brassica</i> plant comprising "at least 54% by weight of polyunsaturated ω 3-fatty acids" recited in claims 8-16 		
		3.	Ground 2: No Written Description for "at least 20% by weight of EPA, at least 2% by weight of docosapentaenoic acid (DPA), and at least 4% by weight of docosahexaenoic acid (DHA) based on the total fatty acids in the transgenic [<i>Brassica</i>] plant in the form of triacylglycerides," recited in 1-8, and 17-23		
		4.	Ground 3: No Written Description for "at least 20% by weight of EPA based on the total fatty acids in the transgenic [<i>Brassica</i>] plant in the form of triacylglycerides" recited in claim 11		

	5.	Ground 4: No Written Description for "at least 2% by weight of DPA based on the total fatty acids in the transgenic [<i>Brassica</i>] plant in the form of triacylglycerides" recited in claim 12			
	6.	Ground 5: No Written Description for "at least 4% by weight of DHA based on the total fatty acids in the transgenic [<i>Brassica</i>] plant in the form of triacylglycerides" recited in claim 13			
	7.	Ground 6: No Written Description for the amounts of EPA, DPA "and" DHA at "the sn-1, sn-2 or sn-3" position recited in claim 2 55			
	8.	Ground 7: No Written Description for the amounts of EPA, DPA "and" DHA at "the sn-2 position" recited in claim 357			
	9.	Ground 8: No Written Description for "at least 30% long chain polyunsaturated fatty acids (LCPUFAs) based on the total fatty acids in the transgenic [<i>Brassica</i>] plant" recited in claims 5 and 14 			
	10.	Ground 9: No Written Description for "about 25% by weight of EPA in the form of triacylglycerides based on the total fatty acids in the transgenic [<i>Brassica</i>] plant" recited in claims 6 and 1560			
	11.	Ground 10: No Written Description for "about 30% by weight of EPA and DHA in the form of triacylglycerides based on the total fatty acids in the transgenic [<i>Brassica</i>] plant" recited in claims 7 and 16			
	12.	Ground 11: No Written Description for the amounts of EPA, DPA, and DHA recited in claim 17 "based on the total fatty acids in the transgenic [<i>Brassica</i>] plant."			
Lack of Enablement in the Priority Applications61					
	1.	Legal Standard for Enablement			
	2.	Ground 12: Oils, lipids and/or fatty acids produced by a transgenic <i>Brassica</i> plant comprising "at least 54% by weight of polyunsaturated ω 3-fatty acids," recited in claims 8-16, are not enabled			
	3.	Ground 13: Oils, lipids and/or fatty acids produced by a transgenic <i>Brassica</i> plant comprising "at least 20% by weight of EPA, at least 2% by weight of docosapentaenoic acid (DPA), and at least 4% by			

C.

weight of docosahexaenoic acid (DHA) based on the total fatty acids in the transgenic [Brassica] plant in the form of triacylglycerides," recited in claims 1-8 and 17-23 are not enabled Ground 14: Oils, lipids and/or fatty acids produced by a transgenic 4. Brassica plant comprising "at least 20% by weight of EPA based on the total fatty acids in the transgenic [Brassica] plant in the form of triacylglycerides," recited in claim 11 is not enabled......72 Ground 15: Oils, lipids and/or fatty acids produced by a transgenic 5. Brassica plant comprising "at least 2% by weight of DPA based on the total fatty acids in the transgenic [Brassica] plant in the form of triacylglycerides," recited in claim 12 is not enabled......72 Ground 16: Oils, lipids and/or fatty acids produced by a transgenic 6. Brassica plant comprising "at least 4% by weight of DHA based on the total fatty acids in the transgenic [Brassica] plant in the form of triacylglycerides," recited in claim 13 is not enabled......72 7. Ground 17: The amounts of EPA, DPA and DHA at the sn-1, sn-2 or sn-3 positions recited in claim 2 are not enabled......73 Ground 18: The amounts of EPA, DPA and DHA at the sn-2 8. position recited in claim 3 are not enabled74 9. Ground 19: Oils, lipids and/or fatty acids produced by a transgenic Brassica plant comprising "at least 30% long chain polyunsaturated fatty acids (LCPUFAs) based on the total fatty acids in the transgenic [Brassica] plant," recited in claims 5 and 14, are not enabled75 10. Ground 20: Oils, lipids and/or fatty acids produced by a transgenic Brassica plant comprising "about 25% by weight of EPA based on the total fatty acids in the transgenic [Brassica] plant," recited in claims 6 and 15, are not enabled77 11. Ground 21: Oils, lipids and/or fatty acids produced by a transgenic Brassica plant comprising "about 30% by weight of EPA and DHA in the form of triacylglycerides based on the total fatty acids in the transgenic [Brassica] plant," recited in claims 7 and 16, are not

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