UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SYNGENTA CROP PROTECTION AG,
Petitioner,

v.

UPL LIMITED,
Patent Owner.

Case PGR2023-00017
Patent 11,445,727 B2

DECLARATION OF PHILLIP M. BRANNEN, Ph.D., IN SUPPORT OF PETITION FOR POST-GRANT REVIEW OF U.S. PATENT NO. 11,445,727

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B. Ground 2: Claims 1-10 of the '727 Patent are anticipated by, or in the alternative rendered obvious by, Tobler (Ex. 1006) alone or in view of Godoy (Ex. 1005) 47

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C. Ground 3: Claims 1-10 of the '727 Patent are rendered obvious by De Oliveira (Ex. 1007) alone or in view of either Wiglesworth (Ex. 1008), Tobler (Ex. 1006) or Godoy (Ex. 1005).....67

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I, Phillip M. Brannen, hereby declare as follows:

I. INTRODUCTION

A. Scope of Work

1. I have been retained by Baker & Hostetler LLP on behalf of Syngenta Crop Protection AG ("Syngenta" or "Petitioner") as an independent expert to provide my opinions on the subject matter recited in U.S. Patent No. 11,445,727 (Exhibit 1001, "the '727 Patent") in view of the state of the art at the time and various references that predate the '727 Patent, all of which I refer to in this declaration.

2. I understand that Syngenta is petitioning the Patent Trial and Appeal Board (PTAB) to institute a post-grant review (PGR) of the '727 Patent, and is requesting that the PTAB cancel each of claims 1-10 (the "Challenged claims") as unpatentable due to lack of enablement, anticipation, and/or obviousness. I understand that this declaration is being filed as an Exhibit in the PGR.

3. I make this declaration based upon personal knowledge. I am over the age of 21 and otherwise competent to make this declaration.

4. I am being compensated at my normal and customary rate for work performed on this matter. My compensation does not depend on the nature of my findings, the presentation of my findings in testimony, or the outcome of this proceeding. I have no financial interest in Petitioner or Patent Owner.

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B. Qualifications

5. I am a Professor of Plant Pathology at the College of Agricultural and Environmental Sciences, University of Georgia.

6. In 1983, I received a Bachelor of Science degree in plant protection and pest management from the University of Georgia. In 1986, I earned my Master of Science degree in plant pathology, also from the University of Georgia. In 1996, I earned my Ph.D. in plant pathology from Auburn University.

7. I joined the faculty of the University of Georgia in 2000, first as an assistant professor and then as an associate professor. I was promoted to professor in 2012.

8. Before becoming a faculty member at the University of Georgia, I worked in industry and in other related jobs. From 1994 to 2000, I was a plant pathologist in the Biologicals Department of Gustafson LLC in McKinney, Texas. I also worked as a county agent for the Alabama Cooperative Extension Service in the College of Agriculture of Auburn University in Alabama.

9. I currently supervise three graduate students in the Plant Pathology department at the University of Georgia.

10. Since 2000, I have taught numerous undergraduate and graduate level courses in plant pathology, including integrated pest management, field plant pathology, and the history of plant diseases.

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