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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
16/939,236	07/27/2020	Haoyang Duo	82166-US-REG- ORG-NAT-1	1041
			Duo 82166-US-REG- 1041	IINER
16/939,236 07/27/2020 Haoyang Duo 82166-US-REG-ORG-NAT-1  22847 7590 04/07/2021 SYNGENTA CROP PROTECTION LLC PATENT DEPARTMENT PO BOX 12257 9 DAVIS DRIVE RESEARCH TRIANGLE PARK, NC 27709-2257  POSITION ART UNIT PARENT NOTIFICATION DATE DEL	UONG T			
			ART UNIT	PAPER NUMBER
RESEARCH TRIANGLE PARK, NC 27709-2257			1663	
			NOTIFICATION DATE	DELIVERY MODE
			04/07/2021	ELECTRONIC

## Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

global.patents@syngenta.com



	Application No.	Applicant(s)					
0/// 1 // 0	16/939,236	Duo et al.					
Office Action Summary	Examiner	Art Unit	AIA (FITF) Status				
	PHUONG T BUI	1663	Yes				
The MAILING DATE of this communication appears on the cover sheet with the correspondence address							
Period for Reply							
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTHS FROM THE MAILING DATE OF THIS COMMUNICATION.							
<ul> <li>Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.</li> <li>If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.</li> <li>Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).</li> <li>Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).</li> </ul>							
Status							
1) Responsive to communication(s) filed on	<u></u> .						
☐ A declaration(s)/affidavit(s) under <b>37 CFR 1.130(b)</b> was/were filed on							
2a) ☐ This action is <b>FINAL</b> . 2b) {	▼ This action is non-final.						
3) An election was made by the applicant in response to a restriction requirement set forth during the interview on; the restriction requirement and election have been incorporated into this action.							
4) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.							
Disposition of Claims*							
5) ☑ Claim(s) 1-35 is/are pending in the application.							
5a) Of the above claim(s) is/are withdrawn from consideration.							
6) Claim(s) is/are allowed.							
7) Claim(s) is/are rejected.							
8) Claim(s) is/are objected to.							
9) 🗹 Claim(s) 1-35 are subject to restriction and/or election requirement							
* If any claims have been determined <u>allowable</u> , you may be eligible to benefit from the <b>Patent Prosecution Highway</b> program at a							
participating intellectual property office for the corresponding ap	·						
http://www.uspto.gov/patents/init_events/pph/index.jsp or send an inquiry to PPHfeedback@uspto.gov.							
Application Papers							
10) The specification is objected to by the Examiner.							
11) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.							
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).							
Replacement drawing sheet(s) including the correction	on is required if the drawing(s) is object	cted to. See 37	CFR 1.121(d).				
Priority under 35 U.S.C. § 119  12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  Certified copies:							
a) ☐ All b) ☐ Some** c) ☐ None of t	he:						
1. Certified copies of the priority documents							
2. Certified copies of the priority documents have been received in Application No.							
3. Copies of the certified copies of the priority documents have been received in this National Stage							
application from the International Bureau (PCT Rule 17.2(a)).  ** See the attached detailed Office action for a list of the certified copies not received.							
Attachment/e\							
Attachment(s)  1) Notice of References Cited (PTO-892)  3) Interview Summary (PTO-413)							
	Paper No(s)/Mail Da	Date					
<ol> <li>Information Disclosure Statement(s) (PTO/SB/08a and/or PTO/S Paper No/s)/Mail Date</li> </ol>	4) 🗹 Other: Request for Ir	nformation under	37				



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## Notice of Pre-AIA or AIA Status

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The present application, filed on or after March 16, 2013, is being examined under the first inventor to file provisions of the AIA.

### Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-8, 12, 14-21, 26-33 and 35, drawn to tomato hybrid T311457R, classified in A01H 6/825.

II. Claims 1-11, 13-28 and 31-34, drawn to tomato hybrid L10TEN014, classified in A01H 6/825.

2. The inventions are independent or distinct, each from the other because:

Inventions I-II are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different designs, modes of operation, and effects (MPEP § 802.01 and § 806.06). In the instant case, the different inventions have different designs. The tomato varieties of Inventions I and II are chemically, structurally and biologically distinct from each other. Additionally, the parental line can be used for breeding purposes. The hybrid can be used to make commodity plant products.

Restriction for examination purposes as indicated is proper because all the inventions listed in this action are independent or distinct for the reasons given above and there would be a serious search and/or examination burden if restriction were not required because one or more of the following reasons apply:

(a) the inventions have acquired a separate status in the art in view of their different classification;



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(b) the inventions have acquired a separate status in the art due to their recognized divergent subject matter;

- (c) the inventions require a different field of search (for example, searching different classes/subclasses or electronic resources, or employing different search queries);
- (d) the prior art applicable to one invention would not likely be applicable to another invention;
- (e) the inventions are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of an invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable upon the elected invention.

Should applicant traverse on the ground that the inventions are not patentably distinct, applicant should submit evidence or identify such evidence now of record



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showing the inventions to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103 or pre-AIA 35 U.S.C. 103(a) of the other invention.

3. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be corrected in compliance with 37 CFR 1.48(a) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. A request to correct inventorship under 37 CFR 1.48(a) must be accompanied by an application data sheet in accordance with 37 CFR 1.76 that identifies each inventor by his or her legal name and by the processing fee required under 37 CFR 1.17(i).

#### Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to PHUONG T BUI whose telephone number is (571)272-0793. The examiner can normally be reached on M-F 8am-5pm.

Examiner interviews are available via telephone, in-person, and video conferencing using a USPTO supplied web-based collaboration tool. To schedule an interview, applicant is encouraged to use the USPTO Automated Interview Request (AIR) at http://www.uspto.gov/interviewpractice.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amjad Abraham can be reached on 571-270-7058. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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