UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CONOPCO, INC. d/b/a UNILEVER Petitioner

v.

THE PROCTER & GAMBLE COMPANY Patent Owner

> Case IPR2014-00507 Patent 6,451,300

PATENT OWNER'S PRELIMINARY RESPONSE PURSUANT TO 37 C.F.R. § 42.107

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TABLE OF AUTHORITIES

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