UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

E. I. DU PONT DE NEMOURS AND COMPANY and
ARCHER-DANIELS-MIDLAND COMPANY,
Petitioners,

v.

FURANIX TECHNOLOGIES B.V.,
Patent Owner

Case IPR2015-01838
Patent 8,865,921

PATENT OWNER'S OBJECTIONS TO EVIDENCE SUBMITTED WITH PETITIONERS' REPLY

Pursuant to 37 C.F.R. § 42.64(b)(1), Patent Owner, Furanix Technologies B.V. ("Furanix") objects to the admissibility of the following exhibits filed by Petitioners with Petitioners' Reply of September 15, 2016.

In this paper, a reference to "FRE" means the Federal Rules of Evidence a reference to "CFR" means the Code of Federal Regulations. The '921 patent means US Patent No. 8,865,921.

Furanix's objections are as follows:

Exhibit 1030 (WO 2010/111288 A2)

Patent Owners object to Exhibit 1030 under FRE 802 (hearsay). Patent Owners also object to Exhibit 1030 under FRE 402 (relevance) and FRE 403 (confusing, waste of time), at least because the exhibit does not stand for the propositions suggested in Petitioners' Reply and it is not relevant to any issue at hand in this IPR.

Exhibit 1029 (US Patent No. 8,519,167)

Patent Owners object to Exhibit 1029 under FRE 802 (hearsay). Patent Owners also object to Exhibit 1029 under FRE 402 (relevance) and FRE 403 (confusing, waste of time), at least because at least because the exhibit does not stand for the propositions suggested in Petitioners' Reply and it is not relevant to

any issue at hand in this IPR. Patent Owner further object to Exhibit 1029 under 37 C.F.R. § 42.23 as constituting improper reply evidence, i.e., it is new evidence that could have been presented in the Petition for *Inter Partes* Review.

Exhibit 1028 (Declaration #2 of Dr. Kevin J. Martin)

Patent Owners object to Exhibit 1028 under 37 C.F.R. § 42.23 because the exhibit contains improper reply evidence, i.e., new evidence and opinions that could have been presented in the Petition for *Inter Partes* Review. For example, Patent Owners object on this basis under 37 C.F.R. § 42.23 to the following paragraphs of Exhibit 1028, for at least the following reasons:

(a) Paragraphs 5-7, at least because they improperly expand on Dr. Martin's opinion on the definition of a person of ordinary skill in the art, with reference and to and new opinions on the prior art, including the '732 publication (WO/0172732 A2);

(b) Paragraphs 8-19, at least because they improperly provide new opinions on the the '732 publication, the Partenheimer publication, the alleged motivation to combine the prior art, the yields associated with Partenheimer, and the ultimate conclusion of supposed obviousness;

(c) Paragraphs 20-28, at least because they improperly provide, for the first time in this IPR, opinions from Dr. Martin on the '318 publication (U.S.

Patent Publication No. 2008/0103318) and its combination with the '732 publication and RU '177 (RU 448177), along with new opinions on the '732 publication and RU '177. Dr. Martin's original declaration, Exhibit 1009, made no mention of the '318 publication or any combination of the '318 publication with any other prior art, including the '732 publication and RU '177, so those new opinions are improper as part of the Reply;

(d) Paragraphs 29-35, at least because they improperly offer opinions on experiments in the '921 patent and commercial viability that could have been offered in the Petition.

Patent Owners further object to Exhibit 1028 under FRE 802 (hearsay), FRE 702 (improper expert testimony), FRE 703 (bases for expert opinion), FRE 402 (relevance), and FRE 403 (confusing, waste of time) for failing to identify with particularity the underlying facts and data on which the opinion is based, and 37 CFR § 42.65, as the testimony is not based on sufficient facts or data, is not the product of reliable principles and methods, and the principles and methods have not been reliably applied to the facts of the case.

Dated: September 22, 2016

Respectfully submitted,

/ Paul M. Richter, Jr. /
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