UNITED STATES PATE	NT AND TRADEMARK OFFICE
BEFORE THE PATENT	TRIAL AND APPEAL BOARD
	ATIONAL (USA), INC., retitioner,
	V.
	L NA INC., tent Owner
	PR2020-01113 nt 7,473,685

PETITIONER'S REPLY TO UPL'S RESPONSE



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EXHIBIT LIST

1001	U.S. Patent No. 7,473,685 ("the '685 patent")
1002	Prosecution History of the '685 patent
1003	Declaration of William Geigle
1004	Curriculum Vitae of William Geigle
1005	U.S. Patent No. 6,387,388 ("Misselbrook")
1006	Chinese Patent Publication No. 1127588A
1007	Certified Translation of Chinese Patent Publication No. 1127588A ("CN '588")
1008	Japanese Patent Publication No. 9-315902A
1009	Certified Translation of Japanese Patent Publication No. 9-315902A ("JP '902")
1010	U.S. Patent No. 6,030,924 ("Mayer")
1011	"Basic Information about Pesticide Ingredients," U.S. Environmental Protection Agency, at https://www.epa.gov/ingredients-used-pesticide-products/basic-information-about-pesticide-ingredients , last accessed 6/4/20
1012	"Reregistration Eligibility Decision for Acephate," U.S. Environmental Protection Agency, Prevention, Pesticides, and Toxic Substances, September 2001
1013	Search Results for Chemical Name: Acephate that are "Active" at EPA's Pesticide Product and Label System, at: https://iaspub.epa.gov/apex/pesticides/f?p=PPLS:1 , lasted accessed 6/3/20
1014	Search Results for Chemical Name: Acephate that are "Inactive" at EPA's Pesticide Product and Label System, at:



https://iaspub.	epa.gov/apex	/pesticides/f?	p=PPLS:1,	lasted a	accessed
6/3/20		•			

- Order: re Claim Construction *UPL NA Inc. v. Tide International (USA), Inc. et al.*, No. 8:19-cv-1201-RSWL-KS (C.D. Cal.), Doc. 83 (4/10/20)
- 1016 CIPAC webpage describing "History," at https://www.cipac.org/index.php/about-us/history, last accessed 6/6/20
- Excerpts of *Particle Size Characterization*, Ajit Jillavenkatesa et al., National Institute of Standards and Technology, Technology Administration, U.S. Department of Commerce, Special Publication 960-1 (Jan. 2001), at https://tsapps.nist.gov/publication/get_pdf.cfm?pub_id=850451, last accessed 6/4/20
- 1018 U.S. Patent No. 6,875,381 ("the '381 patent")
- Excerpt from the Prosecution History of the '381 patent
- 1020 U.S. Patent Publication No. 2002/0114821A1 ("Lescota")
- 1021 U.S. Patent No. 4,892,866 ("Itzel")
- 1022 CIPAC webpage entitled "MT 47 Persistent Foaming," at https://www.cipac.org/index.php/f18/370-mt-47-persistent-foaming, last accessed 6/6/20
- CIPAC webpage entitled "Errata," at https://www.cipac.org/index.php?option=com_content&view=ca tegory&id=97&Itemid=562, last accessed 6/6/20
- Excerpts from *Chemistry and Technology of Agrochemical Formulations*, D.A. Knowles, Ed. (1998)
- "Sulfonation and Sulfation Processes," Norman C. Foster, *Chemithon* (1997)
- 1026 CIPAC webpage entitled "Content of CIPAC Handbook F," at https://www.cipac.org/index.php/methods-publications/handbooks/handbook-f, last accessed 6/10/20



1027 Joint Status Report, UPL NA Inc. v. Tide International (USA), Inc. et al., No. 8;19-cv-1201-RSWL-KS (C.D. Cal.), Doc. 84 (4/20/20) 1028 May 2020 email correspondence from *UPL NA Inc. v. Tide* International (USA), Inc. et al., No. 8;19-cv-1201-RSWL-KS (C.D. Cal.) "China Judicial Assistance Information," U.S. Department of State, 1029 Bureau of Consular Affairs, at https://travel.state.gov/content/travel/en/legal/Judicial-Assistance-Country-Information/China.html, last accessed 6/16/20 1030 "Hong Kong Judicial Assistance Information," U.S. Department of State, Bureau of Consular Affairs, at https://travel.state.gov/content/travel/en/legal/Judicial-Assistance-Country-Information/HongKong.html, last accessed 6/16/20 "Ministry of Foreign Affairs of the People's Republic of China 1031 National Immigration Administration Announcement on Temporary Suspension of Entry by Foreign Nationals Holding Valid Chinese Visas or Residence Permits," Mar. 26, 2020, at https://www.fmprc.gov.cn/mfa eng/wjbxw/t1761867.shtml via Wayback Machine, last accessed 6/16/20 1032 "Proclamation on Suspension of Entry as Immigrants and Nonimmigrants of Persons who Pose a Risk of Transmitting 2019 Novel Coronavirus," White House, at https://www.whitehouse.gov/presidential-actions/proclamationsuspension-entry-immigrants-nonimmigrants-persons-pose-risktransmitting-2019-novel-coronavirus/, last accessed 6/16/20 1033 "Chapter 599C, Compulsory Quarantine of Certain Persons Arriving at Hong Kong Regulation," Hong Kong e-Legislation, Feb. 8, 2020, at https://www.elegislation.gov.hk/hk/cap599C, last accessed 6/16/20 1034 Order: re Defendant's Motion to Stay Litigation Pending *Inter Partes* Review, Spin Master Ltd. v. Mattel, Inc., CV 18-3435-RSWL-GJS (C.D. Cal.) (11/21/18) 1035 Tide Stipulation to UPL Regarding IPR Proceedings



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