

**UNITED STATES INTERNATIONAL TRADE COMMISSION  
WASHINGTON, D.C.**

IN THE MATTER OF

CERTAIN GLUCOSYLATED STEVIOL  
GLYCOSIDES, AND PRODUCTS CONTAINING  
SAME

Investigation No. 337-TA-\_\_\_\_\_

**COMPLAINT OF PURECIRCLE USA INC. AND PURECIRCLE SDN BHD  
UNDER SECTION 337 OF THE TARIFF ACT OF 1930, AS AMENDED**

**COMPLAINANTS:**

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**EXHIBITS AND APPENDICES TO THE COMPLAINT**

<b><u>Exhibit No.</u></b>	<b><u>Description</u></b>
1	Copy of U.S. Patent No. 9,420,815
2	Copy of Assignment Records for U.S. Patent No. 9,420,815
3	PureCircle Product Information [CONFIDENTIAL]
4	SGF Website Printout, <a href="https://sweetgreenfields.com/products-and-services/products/">https://sweetgreenfields.com/products-and-services/products/</a>
5	Infringement Claim Chart for U.S. Patent No. 9,420,815
6	Domestic Industry Claim Chart for U.S. Patent No. 9,420,815
7	Documents Showing Respondents' Importation of Accused Products [THIRD-PARTY CONFIDENTIAL]
8	Declaration of Rakesh Sinha, Chief Financial Officer of PureCircle Limited, with Exhibits [CONFIDENTIAL]
9	Excerpts of PureCircle's Fiscal Year 2016 Annual Report
10	FEMA Website Printout, <a href="https://www.femaflavor.org">https://www.femaflavor.org</a>
11	SGF Website Printout, <a href="https://sweetgreenfields.com/">https://sweetgreenfields.com/</a>
12	SGF Website Printout, <a href="https://sweetgreenfields.com/press-releases/sweet-green-fields-unites-with-longest-standing-supplier-to-create-worlds-most-innovative-stevia-company">https://sweetgreenfields.com/press-releases/sweet-green-fields-unites-with-longest-standing-supplier-to-create-worlds-most-innovative-stevia-company</a>
13	Green-Health Website Printout, <a href="http://greenhealth.en.ningboexport.com/">http://greenhealth.en.ningboexport.com/</a>
14	Printout of File Titled "SGF Brochure Digital 032417_0," available at <a href="https://www.tateandlyle.com/sites/default/files/2017-08/SGF%20Brochure%20Digital%20032417_0.pdf">https://www.tateandlyle.com/sites/default/files/2017-08/SGF%20Brochure%20Digital%20032417_0.pdf</a>
15	SGF Website Printout, <a href="http://sweetgreenfields.com/press-releases/sweet-green-fields-unveils-an-innovation-in-enhancing-taste-in-stevia-and-sugar-sweetened-products/">http://sweetgreenfields.com/press-releases/sweet-green-fields-unveils-an-innovation-in-enhancing-taste-in-stevia-and-sugar-sweetened-products/</a>
16	GRAS Flavoring Substances 28, available at <a href="https://www.femaflavor.org/sites/default/files/InterimGRAS28_August2016_0.pdf">https://www.femaflavor.org/sites/default/files/InterimGRAS28_August2016_0.pdf</a>
17	Photograph of Sample of Exemplary Domestic Industry Product

**Appendix****Description**

- A Prosecution History of U.S. Patent No. 9,420,815
- B Patents and Technical References Mentioned in the Prosecution History of U.S. Patent No. 9,420,815
- C License Agreement for U.S. Patent No. 9,420,815 [CONFIDENTIAL]



**I. INTRODUCTION**

1. This Complaint is filed by PureCircle USA Inc. and PureCircle Sdn Bhd (together, “PureCircle” or “Complainants”) for violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, by Proposed Respondents Sweet Green Fields USA LLC, Sweet Green Fields Co., Ltd. (collectively, “SGF”), and Ningbo Green-Health Pharma-ceutical Co., Ltd a/k/a NB Green-Health Pharma-ceutical Co., Ltd. (together with SGF, “Respondents”).

2. The violation is based upon the unlawful importation into the United States, the sale for importation into the United States, and/or the sale within the United States after importation of certain glycosylated steviol glycosides and products containing same, by Respondents, including products sold under the product name Natrose™ or Natrose Flavor (the “Accused Products”). The Accused Products are covered by and infringe one or more claims of U.S. Patent No. 9,420,815 (“the ’815 patent”), of which PureCircle Sdn Bhd is the owner by assignment and PureCircle USA Inc. is the exclusive U.S. licensee. The presently asserted claims of the ’815 patent are as follows:

<b>U.S. Patent No.</b>	<b>Independent Claims Asserted</b>	<b>Dependent Claims Asserted</b>
9,420,815	1	2-14

3. A domestic industry as required by 19 U.S.C. §§ 1337(a)(2) and (3) exists relating to the PureCircle products protected by the ’815 patent, and PureCircle’s significant and substantial investments in plant, labor, capital, equipment, research and development related to developing the patented technology and PureCircle’s domestic industry products to implement the technology.

4. In the alternative, a domestic industry as required by 19 U.S.C. §§ 1337(a)(2) and (3) is in the process of being established relating to PureCircle products protected by the ’815 patent. PureCircle’s significant and substantial investments in plant, labor, capital, equipment,

[REDACTED]

research and development, and exploitation of the '815 patent constitute active engagement in necessary and tangible steps to establish the exploitation of PureCircle's intellectual property rights. As a result of these significant and substantial investments, there is a significant likelihood that the domestic industry requirement as to PureCircle's domestic industry products will be satisfied in the future, to the extent it is not already established.

5. PureCircle seeks as relief a limited exclusion order permanently excluding from entry into the United States the Respondents' infringing glycosylated steviol glycosides and products containing same. PureCircle also seeks a cease and desist order prohibiting Respondents' importation, sale, offer for sale, advertising, marketing, demonstrating, promoting, or packaging of the infringing glycosylated steviol glycosides and products containing same. PureCircle also seeks the imposition of a bond during the 60-day Presidential review period to prevent further injury to PureCircle's domestic industry relating to the '815 patent.

## **II. THE PARTIES**

### **A. Complainants**

6. Complainant PureCircle USA Inc. is a Delaware corporation with its principal place of business at 915 Harger Road, Suite 250, Oak Brook, IL 60523.

7. Complainant PureCircle Sdn Bhd is a Malaysian corporation with its principal place of business at Level 12, West Wing, Rohas PureCircle, No. 9 Jalan P. Ramlee, 50250 Kuala Lumpur, Malaysia.

8. Complainants are each subsidiaries of PureCircle Limited. In Fiscal Year 2016, PureCircle Limited (which is traded on the London Stock Exchange), reported sales of \$138.6 million and net profit of \$14.6 million. Excerpts from PureCircle Limited's 2016 Annual Report are attached hereto as Exhibit 9.

[REDACTED]

9. Since its founding in 2002, PureCircle Limited, along with its subsidiaries, has been the industry pioneer in large-scale high-purity stevia ingredient production and commercialization.

10. PureCircle products are derived from the stevia plant, which contains over 40 naturally occurring molecules known as steviol glycosides that can be extracted for use in sweeteners and as flavor modifiers.

11. The success of PureCircle Limited and its subsidiaries is the result of innovation at every stage of the supply chain, from developing high-yield varieties of the stevia plant to developing sophisticated processes to extract and modify the steviol glycosides for specific food and beverage applications.

12. PureCircle Limited and its subsidiaries work with leading companies in the food and beverage industries to investigate new stevia-derived ingredients for application in food and beverage products. In addition, PureCircle founded the Global Stevia Institute, an organization that is based in the United States and run by Dr. Priscila Samuel, PureCircle's Director of GSI and Scientific and Regulatory Affairs. The Global Stevia Institute provides science-based information about stevia, serving as an educational resource for health professionals, manufacturers and the general public.

13. In 2008, as a result of the efforts of PureCircle Limited, Rebaudioside A ("Reb A"), a high-purity stevia ingredient, was approved as a food ingredient by the U.S. Food and Drug Administration ("FDA") and by the World Health Organization. The market has continued to open since that time, with regulatory approvals having been obtained in European Union, Australia, New Zealand, Canada, Turkey, Russia, South Africa, Pakistan, India, Brazil, and many other countries. More than 5 billion consumers now live in markets where stevia-derived ingredients have been approved as a food and beverage ingredient.

[REDACTED]

14. In 2013, as a result of the efforts of PureCircle USA Inc., the FDA issued Generally Recognized as Safe (“GRAS”) No Objection Letters for the use of PureCircle Rebaudioside D and consequently Rebaudioside M as general-purpose sweeteners in 2014 for foods and beverages.

15. PureCircle Limited and its subsidiaries have also been the industry pioneer in the development of stevia-derived glucosylated steviol glycoside (“GSG”) compositions, which are used for taste improvement and flavor modification in food and beverage products, such as carbonated beverages and yogurt. The PureCircle domestic industry products that are the subject of this Complaint are examples of such GSG compositions.

16. GSG compositions were approved by the FDA as sweeteners in 2013 and as flavors in 2015. PureCircle’s NSF-02 product was the basis for FEMA GRAS 4728,<sup>1</sup> under which GSG flavors can be imported into the United States and used by food and beverage manufacturers as “natural flavors.”

17. PureCircle’s research and development team has subsequently created higher-functioning GSG ingredients, such as GSG Reb A and GSG A95, which are included in the PureCircle domestic industry products that are the subject of this Complaint. PureCircle’s research and development team have also established FEMA-approved usage levels for GSG compositions and products in particular food and beverage categories, such as dairy products, teas and baked goods.

18. PureCircle protected its innovative processes and compositions by, among other things, filing and procuring patents. PureCircle currently owns or co-owns 71 U.S. patents, including the ’815 patent. The company’s portfolio includes 21 commercial stevia-derived

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<sup>1</sup> “FEMA” is the Flavor and Extract Manufacturers Association (located in Washington, D.C., <https://www.femaflavor.org>). A printout of the FEMA website is attached hereto as Exhibit 10.



[REDACTED]

ingredients and 24 custom stevia-derived ingredients. The custom ingredients can be combined to optimize processing, flavor and other qualities in particular products.

19. As described in Section IX below, PureCircle researched and developed the technology that is protected by the '815 patent and continues to use and develop technologies covered by the '815 patent in the United States. In connection with the exploitation of these technologies, PureCircle has made and continues to make significant and substantial investments in the United States in plant, equipment, labor and capital, and research and development, also as described in Section IX below.

**B. Proposed Respondents**

20. On information and belief, Proposed Respondent Sweet Green Fields USA LLC is a limited liability corporation organized under the laws of the State of Delaware, having its principal place of business at 11 Bellwether Way, Suite 305, Bellingham, WA 98225. SGF also maintains a website, <https://sweetgreenfields.com/>, a true and correct copy of which is attached hereto as Exhibit 11.

21. On information and belief, Proposed Respondent Sweet Green Fields Co., Ltd. is a Chinese corporation, having its principal place of business at 11 Bellwether Way, Suite 305, Bellingham, WA 98225, and having additional headquarters in Beijing, China. Sweet Green Fields Co., Ltd. also has a presence on SGF's website, *see, e.g.*, <https://sweetgreenfields.com/press-releases/sweet-green-fields-unites-with-longest-standing-supplier-to-create-worlds-most-innovative-stevia-company/>, a true and correct copy of which is attached hereto as Exhibit 12.

22. On information and belief, Proposed Respondent Ningbo Green-Health Pharmaceutical Co., Ltd. a/k/a NB Green-Health Pharmaceutical Co., Ltd. ("Green-Health") is a Chinese corporation, having its principal place of business at Fenghua Xiwu Town Foreign Technological Garden Fenghua in Ningbo, Zhejiang, China. On information and belief, Green-Health also has a

[REDACTED]

presence in the United States through a related company, Ningbo Green-Health Pharm (USA) Inc., at 19745 Colima Road, #1-126, Rowland Heights, CA 91748. On information and belief, Green Health also has a presence on Green-Health's website, *see, e.g.*, <http://greenhealth.en.ningboexport.com/>, a true and correct copy of which is attached hereto as Exhibit 13. On information and belief, Green-Health imports Accused Products into the United States on behalf of SGF. *See* Exhibit 8.

23. On information and belief, Respondents manufacture, import, sell for importation and/or sell after importation the Accused Products. The Accused Products incorporate, without license, technologies developed by PureCircle and protected by the '815 patent.

### **III. THE PRODUCTS-AT-ISSUE**

#### **A. PureCircle's Flavor Products**

24. PureCircle's products that practice the '815 patent are certain GSG compositions, sold under the general product name NSF-02 and the sub-product names "GSG Reb A" and "GSG A95" (collectively, the "PC Flavor Products"). The PC Flavor Products are used to desirably modify the taste and flavor of food and beverages.

25. After PureCircle's U.S. facilities opened in 2009, PureCircle's U.S. scientists developed NSF-02 as a flavor with modifying properties for use as a standalone ingredient and in blends with other flavors for U.S. customers. They subsequently developed other types of GSG flavors, including GSG Reb A and GSG A95, to optimize their taste and functionality as flavors. Each of these GSG compositions practice the '815 patent and include, by way of example:

- a. Blends of different GSG and steviol glycoside components with varied glucose chain lengths, resulting in better, cleaner tasting GSG flavors; and
- b. GSG made from higher value starting materials, such as Reb A, other high purity steviol glycosides, and specially purified steviol glycoside extracts such as A95.

[REDACTED]

26. The NSF-02, GSG Reb A, and GSG A95 products that are protected by the '815 patent have a significantly higher value than other GSG products, as shown in Confidential Exhibit 8, the Declaration of Rakesh Sinha, who is the Chief Financial Officer of PureCircle Limited.

**B. Proposed Respondents' Infringing Products**

27. On information and belief, the Accused Products include products marketed under the product name Natrose™ or Natrose Flavor and consist of certain glycosylated steviol glycosides (including Natrose I, also known as Natrose I natural flavor) and products containing same (including Natrose 30 and Natrose 50). Natrose is described by SGF's online product listing as follows:<sup>2</sup>



FEMA GRAS flavor modifier. **Natrose Flavor** is highly synergistic with sugar, stevia extracts and monk fruit. This flavor enhances the sweetness profile of the sweetener system in food and beverage such as a quick sweetness onset, a gentle sweetness curve and reduction in intrinsic bitter and lingering tastes.

28. The Natrose family of products is also described as follows on the website of an SGF customer:<sup>3</sup>

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<sup>2</sup> See <https://sweetgreenfields.com/products-and-services/products/>, a true and correct copy of which is attached hereto as Exhibit 4.

<sup>3</sup> See [https://www.tateandlyle.com/sites/default/files/2017-08/SGF%20Brochure%20Digital%20032417\\_0.pdf](https://www.tateandlyle.com/sites/default/files/2017-08/SGF%20Brochure%20Digital%20032417_0.pdf), a true and correct copy of which is attached hereto as Exhibit 14.

[REDACTED]

**Natrose™ I**

Natrose™ I is a glycosylated stevia flavor that complies with FEMA GRAS 4728. The Natrose™ family includes the flavor itself and some unique blends with steviol glycosides ready-made for either 30 or 50% sugar replacement in applications such as beverages and dairy products.

- Natrose™ I natural flavor
- Natrose™ 30
- Natrose™ 50

29. According to the listing shown in Exhibit 14, Natrose I complies with FEMA GRAS 4728. FEMA GRAS 4728 was based on the '815 patent and PureCircle's NSF-02 product which practices the '815 patent. On information and belief, Natrose 30 and Natrose 50 are compositions containing Natrose I.

30. On information and belief, the Accused Products are imported into the United States from China. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] On information and belief, Natrose is the product name that SGF uses to sell the Accused Products.

31. On information and belief, Respondents maintain a commercially significant inventory of the Accused Products in the United States.

**IV. THE PATENT-AT-ISSUE: U.S. PATENT NO. 9,420,815**

32. The patent-at-issue is U.S. Patent No. 9,420,815, entitled "Glucosylated Steviol Glycoside As A Flavor Modifier." A certified copy of the '815 patent is attached as Exhibit 1.

[REDACTED]

33. The '815 patent issued on August 23, 2016 from U.S. patent application No. 14/795,792, filed July 9, 2015. The history of the prosecution of the '815 patent, which is the result of a series of continuation applications, is as follows:

- a. U.S. patent application No. 14/795,792 is a continuation of U.S. patent application No. 14/031,290, filed on September 19, 2013, now U.S. Patent No. 9,107,436;
- b. U.S. patent application No. 14/031,290, is a continuation-in-part application of the following applications:
  - i. U.S. patent application No. 14/005,852, filed on September 18, 2013, filed as Application number PCT/US2012/030210 on March 22, 2012;
  - ii. U.S. patent application No. 14/005,850, filed on September 18, 2013, filed as Application number PCT/US2011/033912 on April 26, 2011;
  - iii. U.S. patent application No. 13/567,707, filed on August 6, 2012, which issued as U.S. Patent No. 8,647,844 on Feb. 11, 2014, and which is a divisional application of U.S. patent application No. 13/029,263, filed on February 17, 2011, which issued as U.S. Patent No. 8,257,948 on September 4, 2012;
  - iv. U.S. patent application No. 13/589,754, filed on August 20, 2012, which issued as U.S. Patent No. 8,735,101 on May 27, 2014, and which is a continuation application of U.S. patent application No. 13/074,179, filed on March 29, 2011, which issued as U.S. Patent No. 8,318,459 on November 27, 2012;
  - v. U.S. patent application No. 13/841,261, filed on March 15, 2013; and

[REDACTED]

c. U.S. provisional patent application No. 61/725,233, filed on November 12, 2012.

34. The '815 patent issued to inventors Siddhartha Purkayastha, Ph.D. and Avetik Markosyan M.D., Ph.D. PureCircle Sdn Bhd is the owner of the '815 patent by assignment made on June 19, 2015. Certified copies of the assignment records of the '815 patent are attached as Exhibit 2. PureCircle Sdn Bhd issued an exclusive license for the '815 patent to PureCircle USA Inc., as shown in Appendix C.

35. A certified copy of the prosecution history of the '815 patent has been submitted with this Complaint as Appendix A. The patents and technical references mentioned in the prosecution history of the '815 patent have also been submitted with this Complaint as Appendix B.

36. The claims of the '815 patent are valid, enforceable and currently in full force and effect.

**A. Foreign Counterpart Patents**

37. There are five foreign counterparts to the '815 patent, as follows:

Country	Application Number	Filing Date	Status
Brazil	BR1120160061551	03/21/2016	Pending
China	201480057789.2	04/21/2016	Published
Europe	148457203	04/14/2016	Published
India	201617011089	03/30/2016	Published
Mexico	MX/a/2016/003540	03/17/2016	Pending

38. PureCircle Limited directly and/or indirectly owns all right, title and interest in and to each of these foreign counterpart patents.

39. PureCircle is not aware of any other foreign counterparts or foreign counterpart applications corresponding to the '815 patent that have been issued, abandoned, denied, or which remain pending.

[REDACTED]

**B. Licensees Under the '815 Patent**

40. Aside from the exclusive license between PureCircle Sdn Bhd and PureCircle USA Inc., attached hereto as Appendix C, there are no licenses for the '815 patent.

**C. Non-Technical Description of the Patented Technology<sup>4</sup>**

41. The '815 patent has fourteen claims, comprised of one independent claim and thirteen dependent claims.

42. In non-technical terms, the '815 patent protects a taste and flavor profile modifying composition that includes a blend of glucosylated steviol glycosides and residual steviol glycosides which can modify the intensity of a taste and/or flavor in a food or beverage product.

**V. UNLAWFUL AND UNFAIR ACTS OF RESPONDENTS—  
INFRINGEMENT OF THE '815 PATENT**

43. Respondents have engaged in unfair trade practices, including the sale for importation into the United States, importation into the United States, and/or sale within the United States after importation, of certain glycosylated steviol glycosides and products containing same, including the Accused Products, that infringe claims 1 through 14 of the '815 patent.

44. On information and belief, Respondents manufacture the Accused Products outside the United States, at least in China. Respondents then sell for importation, import into the United States, and/or sell within the United States after importation the Accused Products.

45. Respondents have directly infringed and continue to directly infringe claims 1 through 14 of the '815 patent by making, using, selling, offering for sale, and/or importing into the

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<sup>4</sup> This description and any other non-technical descriptions in this Complaint are for illustrative purposes only. Nothing in any non-technical description contained within this Complaint is intended to, either implicitly or explicitly, express any position regarding the proper construction of any claim of the '815 patent.

[REDACTED]

United States certain glycosylated steviol glycosides and products containing same, including the Accused Products.

46. An exemplary claim chart that applies the asserted independent claim of the '815 patent (claim 1) to a representative Accused Product (Natrose I) is attached as Exhibit 5.

**VI. SPECIFIC INSTANCES OF UNFAIR IMPORTATION AND SALE**

47. On information and belief, Respondents sell for importation, import and/or sell within the United States after importation the Accused Products that infringe the asserted claims of the '815 patent. The Accused Products are manufactured outside of the United States. The specific instances of importation of Accused Products set forth below are representative examples of Respondents' unlawful importation of infringing articles.

48. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



[REDACTED]

[REDACTED]

[REDACTED]

49. Discovery is expected to reveal additional specific acts of Respondents' importation, sale for importation, and/or sale after importation of the Accused Products.

**VII. HARMONIZED TARIFF SCHEDULE ITEM NUMBER**

50. On information and belief, the imported Accused Products are classified under subheading 293890.0000 of the Harmonized Tariff Schedule of the United States.

**VIII. RELATED LITIGATION**

51. The '815 patent has not been the subject of any other court or agency litigation, foreign or domestic.

52. The alleged unfair methods of competition and unfair acts have not been the subject of any other court or agency litigation, foreign or domestic.

**IX. DOMESTIC INDUSTRY**

53. A domestic industry as defined by 19 U.S.C. § 1337(a)(3) exists with respect to PureCircle's activities in the United States that exploit the '815 patent and that relates to products that employ the patented technology by reason of PureCircle's significant and substantial investments in physical operations, employment of labor and capital, and exploitation of the '815 patent. Alternatively, a domestic industry as defined by 19 U.S.C. § 1337(a)(3) is in the process of being established relating to PureCircle products protected by the '815 patent.

**A. PureCircle's Practice of the '815 Patent**

54. The PC Flavor Products are designed, developed, manufactured, and sold by PureCircle and practice one or more asserted claims of the '815 patent. For example, PureCircle's NSF-02 products practice claims 1-14 of the '815 patent. An exemplary claim chart that applies

[REDACTED]

independent claim 1 of the '815 patent to a representative PC Flavor Product (NSF-02) is attached as Exhibit 6.

**B. PureCircle's Investments in the Domestic Industry**

55. PureCircle has an existing domestic industry as defined by 19 U.S.C. § 1337(a)(3) with respect to PureCircle's activities in the United States that exploit the '815 patent and that relate to products that employ the patented technology by reason of PureCircle's significant and substantial investments in physical operations, employment of labor and capital, and exploitation of the '815 patent. Alternatively, PureCircle has a domestic industry as defined by 19 U.S.C. § 1337(a)(3) in the process of being established relating to PureCircle products protected by the '815 patent. PureCircle has expended significant and substantial investments in plant and equipment, labor or capital, research and development in relation to the PC Flavor Products and PureCircle's '815 patent technology that the products contain. All of the domestic investments PureCircle has made relating to the PC Flavor Products have constituted the necessary and tangible steps to establish such an industry in the United States, and to the extent a domestic industry does not currently exist, there is a significant likelihood that the domestic industry requirement will be met in the future. Specifically, these steps include but are not limited to the activities and investments detailed in PureCircle's Complaint and Confidential Exhibit 8.

56. PureCircle makes extensive use of the inventions claimed in the '815 patent in its PC Flavor Products. The PC Flavor Products were built upon PureCircle's patented technology claimed in the '815 patent, and were designed and developed in the United States. The PC Flavor Products were approved as FEMA GRAS® by the Flavor and Extract Manufacturers' Association in 2013 and thereafter introduced to the U.S. market. As set forth in greater detail above and in Exhibit 6, the PC Flavor Products practice the asserted claims of the '815 patent and thus are PureCircle domestic industry products.

[REDACTED]

57. [REDACTED]

[REDACTED]

[REDACTED] Additional details are provided in Confidential Exhibit 8. Thus, to the extent PureCircle does not have an existing economic domestic industry as to the PC Flavor Products based on the above activities and investments, PureCircle has taken the necessary and tangible steps to establish such an industry in the United States, and there is a significant likelihood that the domestic industry requirement will be met in the future.

**1. Significant Investment in Plant and Equipment**

58. A domestic industry exists in the United States by virtue of PureCircle's significant investments in plant and equipment used to develop flavor products that employ and exploit the technology covered by one or more claims of the '815 patent.

59. PureCircle has made significant domestic investments in plant and equipment with respect to the PC Flavor Products and PureCircle's '815 patent technology that the products contain. Since 2009, PureCircle has maintained research and development laboratories, sales and marketing offices, distribution and warehousing facilities, and administrative offices in the United States in Oak Brook, Illinois. These facilities have been used to develop, distribute, and sell the PC Flavor Products that exploit the '815 patent. These facilities are approximately 10,000 square feet in area. Since Fiscal Year 2014, PureCircle has expended [REDACTED] in leasing and renovation costs for these facilities, of which [REDACTED] is allocable to the PC Flavor Products, as set forth in the Declaration of Rakesh Sinha, Confidential Exhibit 8. [REDACTED]

[REDACTED]

[REDACTED]

60. PureCircle has also made substantial investments in laboratory equipment in the United States that has been used to develop and test the PC Flavor Products. In the past three years

[REDACTED]

alone, PureCircle has invested approximately [REDACTED] in laboratory equipment and laboratory build-out. The Declaration of Rakesh Sinha, Confidential Exhibit 8, sets forth further details regarding these investments and plans for expansion.

61. PureCircle is also continuing to take necessary and tangible steps regarding plant and equipment toward further developing its domestic industry with respect to current and future PC Flavor Products, [REDACTED], [REDACTED], as set forth in the Declaration of Rakesh Sinha, Confidential Exhibit 8.

**2. Significant Employment of Labor and Capital**

62. PureCircle has made significant domestic investments in labor and capital with respect to the PC Flavor Products and PureCircle's '815 patent technology that the products contain. PureCircle currently employs 34 individuals out of its Oak Brook, Illinois headquarters, including 9 scientists. PureCircle has recently been expanding its workforce of scientists, including by adding a Ph.D. flavor chemist. All of PureCircle's U.S. employees are involved directly or indirectly in the development, marketing, sale, and/or distribution of the PC Flavor Products that exploit the '815 patent. The Declaration of Rakesh Sinha, Confidential Exhibit 8, sets forth further details regarding these employees and their compensation.

63. PureCircle is also continuing to take necessary and tangible steps regarding labor and capital toward further developing its domestic industry with respect to current and future PC Flavor Products, [REDACTED], [REDACTED], as set forth in the Declaration of Rakesh Sinha, Confidential Exhibit 8.

[REDACTED]

3. **Substantial Investment in Exploiting the '815 Patent Through Research and Development**

64. PureCircle is a recognized leader in the discovery, processing, and research and development of stevia-based ingredients, including the PC Flavor Products. PureCircle has made substantial domestic investments in research and development and process technology related to the exploitation of the '815 patent, including investments made to develop the PC Flavor Products to implement PureCircle's patented technology. PureCircle has even engaged in joint development activities in the United States with leading food and beverage companies with respect to the PC Flavor Products. These activities and investments are further described in the Declaration of Rakesh Sinha, Confidential Exhibit 8.

65. PureCircle is also continuing to take necessary and tangible steps regarding research and development and process technology toward further developing its domestic industry with respect to current and future PC Flavor Products, [REDACTED], as set forth in the Declaration of Rakesh Sinha, Confidential Exhibit 8.

66. Additional confidential business information regarding PureCircle's investments in plant, equipment, labor, capital, research and development, and process technology related to the PC Flavor Products, the technology of the '815 patent, and the development of existing and future PC Flavor Products to implement PureCircle's patented technology, is set forth in Confidential Exhibit 8 and in the additional confidential exhibits thereto.

67. As reflected in Confidential Exhibit 8 and in the additional confidential exhibits thereto, PureCircle's domestic industry investments are continuing and ongoing.

**[REDACTED]**

**X. RELIEF**

**WHEREFORE**, by reason of the foregoing, Complainants request that the United States International Trade Commission:

(a) Institute an immediate investigation pursuant to Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337(a)(1)(B)(i) and (b)(1), with respect to violations of that section based upon the importation into the United States, the sale for importation into the United States, and/or the sale within the United States after importation by the Respondents of articles that infringe PureCircle's valid and enforceable U.S. Patent No. 9,420,815, including the Accused Products;

(b) Schedule and conduct a hearing on said unlawful acts and, following said hearing, determine whether there has been a violation of Section 337;

(c) Issue a limited exclusion order, pursuant to 19 U.S.C. § 1337(d), excluding from entry into the United States articles that infringe one or more claims of the '815 patent, including the Accused Products.

(d) Issue a permanent cease and desist order, pursuant to 19 U.S.C. § 1337(f), prohibiting each Respondent, and others acting on their behalf, from importing, marketing, selling, offering for sale (including via the Internet or electronic mail), advertising (including via the Internet or electronic mail), distributing, licensing, soliciting, using, or transferring outside the United States for sale in the United States any Accused Products and any other products that infringe any of the claims of the '815 patent;

(e) Impose a bond during the 60-day Presidential review period pursuant to 19 U.S.C. § 1337(e)(1) and (f)(1) to prevent further injury to PureCircle's domestic industry relating to the '815 patent; and



(f) Issue such other orders and further relief as the Commission deems just and proper based upon the facts determined by the investigation and under the authority of the Commission.

Dated: October 19, 2017

Respectfully submitted,

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