

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

FMC CORPORATION,

Plaintiff,

v.

SHARDA USA LLC,

Defendant.

**Civil Action No.:**

**JURY TRIAL DEMANDED**

**VERIFIED COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff, FMC Corporation (“Plaintiff” or “FMC”), by its undersigned counsel, files this Complaint for Patent Infringement against Defendant Sharda USA LLC (“Defendant” or “Sharda”), and alleges as follows:

**NATURE OF THE ACTION**

This is a civil action for the infringement of U.S. Patent No. 9,107,416 and U.S. Patent No. 9,596,857 (collectively, “the Asserted Patents”) under 35 U.S.C. § 271, brought by FMC Corporation against Sharda USA LLC.

**PARTIES**

1. FMC is a Delaware corporation with its corporate headquarters and principal place of business at 2929 Walnut Street, Philadelphia, Pennsylvania, 19104. Among other things, FMC develops, manufactures, markets, and distributes herbicides, fungicides, insecticides, pesticides, and other agricultural chemicals for professional and home use. For over a century, FMC’s innovative agricultural solutions have helped customers throughout the world enhance their crop yield and quantity.

2. Upon information and belief, Sharda is a Delaware corporation with its principal place of business at 34 E, Germantown PK #227, Norristown, Pennsylvania 19401. See Exhibit A hereto, which is printout of the webpage “About Sharda USA,” <http://shardausa.com/about/>. Sharda markets and distributes herbicides, fungicides, insecticides, pesticides, and other agricultural chemicals in direct competition with FMC, but positioned as a lower-cost “generic” manufacturer and supplier of agrochemicals. Upon information and belief, Sharda manufactures, distributes, markets, imports, and sells various crop protection products, including products that infringe the Asserted Patents.

### **JURISDICTION AND VENUE**

3. This Court has subject matter jurisdiction over this action under 28 U.S.C. §§ 1331 and 1338(a) because it arises under the United States Patent Act, 35 U.S.C. §1 *et. seq.*

4. This Court may exercise personal jurisdiction over Sharda on the basis that Sharda operates at an address in this District at 34 E, Germantown PK #227, Norristown, Pennsylvania 19401. This patent infringement case arises directly from Sharda’s continuous and systematic activity in this District, including at least the importation of accused products as set forth in this Complaint as directed from its place of business in Pennsylvania. In short, this Court’s exercise of jurisdiction over Sharda would be consistent with the traditional notions of fair play and substantial justice.

5. Venue is appropriate in this District pursuant to 28 U.S.C. § 1391(b)(1)-(2) and §1400(b). Upon information and belief, Sharda resides in this District, has transacted business in this District, has a regular and established place of business in this District, and has committed and/or induced acts of patent infringement in this District.

**PATENTS-IN-SUIT**

6. On March 21, 2017, the U.S. Patent and Trademark Office duly and legally issued U.S. Patent No. 9,596,857, titled Insecticidal and Miticidal Mixtures of Bifenthrin and Cyano-Pyrethroids (“the ’857 Patent”). A copy of the ’857 Patent is attached as Exhibit B.

7. The ’857 Patent is valid and enforceable.

8. On August 18, 2015, the U.S. Patent and Trademark Office duly and legally issued U.S. Patent No. 9,107,416, titled Insecticidal and Miticidal Mixtures of Bifenthrin and Cyano-Pyrethroids (“the ’416 Patent”). A copy of the ’416 Patent is attached as Exhibit C.

9. The ’416 Patent is valid and enforceable.

10. FMC is the owner of all right, title, and interest in the ’857 Patent and the ’416 Patent (“Asserted Patents”) and has the right to sue for infringement thereof.

**BACKGROUND**

11. FMC’s long history of innovation in agricultural sciences dates back to 1883, when John Bean invented a new insecticide spray pump. Mr. Bean developed this pump to combat an insect infestation that was ravaging orchards and endangering the livelihood of growers. He received a patent for his invention in 1884, and its success led to the formation of the Bean Spray Pump Company, which ultimately became FMC. Since Mr. Bean’s original invention, FMC has continued to focus on innovation in farming and agricultural sciences, investing heavily in research and development to solve the problems facing agricultural industry.

12. FMC has earned a global reputation as an innovator and leader in the development of cutting-edge products for plant health and crop protection. Through its focus on advanced technology and customer-driven research, FMC develops innovative solutions to some of the world’s most significant agricultural challenges. FMC incorporates these groundbreaking

solutions into cost-effective products that enhance crop yield and quality for farmers and agricultural communities around the world.

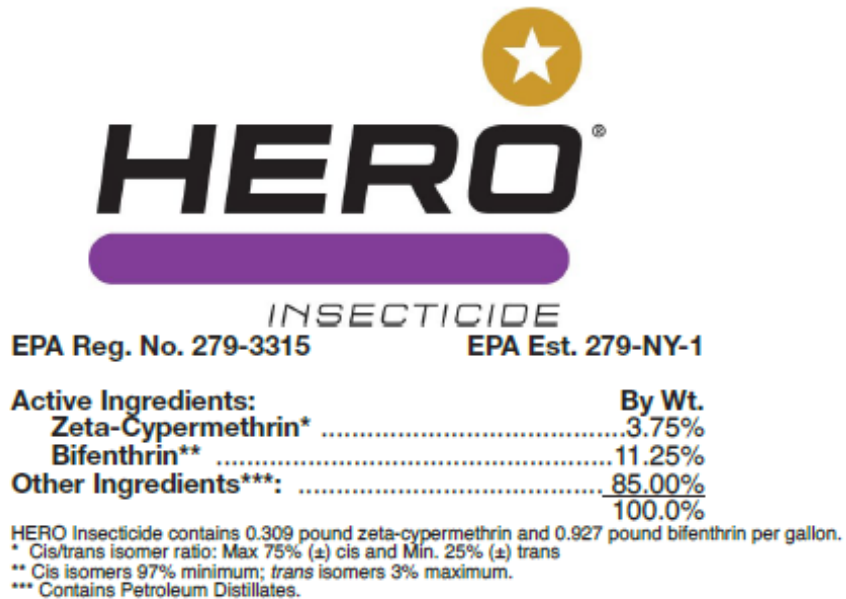
13. FMC has received several awards for its innovative products, including the Agrow Award for Application Technology and the Agrow Award for Best New Biological Product (Biostimulant). FMC is also a four-time recipient of the Agrow Award for Best R&D Pipeline. FMC's employees and inventors work tirelessly to develop FMC's agrochemical solutions. FMC employs approximately 6,600 individuals worldwide, many of whom have received awards for their contributions to the agricultural industry. For example, FMC's inventors have received the prestigious Kenneth Spencer Award from the American Chemical Society. This award is given in recognition of meritorious contributions to the field of agricultural and food chemistry.

14. FMC's inventors developed a novel insecticidal and miticidal composition comprising bifenthrin and cyano-pyrethroids. FMC has received numerous patents around the world that protect compositions, methods, and processes relating to the insecticide, including the Asserted Patents.

15. FMC developed a combination of two highly effective pyrethroid insecticides, namely zeta-cypermethrin and bifenthrin, premixed together and sold under the trademark HERO®. The HERO® insecticide provides pest prevention and healthy, vigorous, yield-producing plants. FMC's HERO® insecticide is available throughout the United States to enhance the growth of soybeans, wheat, corn, sweet corn, beans, and potatoes. The states where a substantial number of crops are treated with HERO® insecticide include Pennsylvania, New Jersey, New York, Florida, Michigan, Ohio, Indiana, Kentucky, Illinois, Wisconsin, Iowa, Missouri, Arkansas, Nebraska, Kansas, Oklahoma, North Dakota, South Dakota, and Idaho.

16. After FMC invested substantial time and research in developing HERO®, FMC was granted patent protection, in the form of at least the Asserted Patents, in order to protect the compositions and methods relating to the HERO® product. FMC’s HERO® insecticide has become a dominant product in the marketplace due to the dual action efficiency of the two insecticides, a fast knockdown of insect pests, the long residual control compared to other insecticides on the market, and protection of crops from a great many agriculturally significant insects and mites.

17. FMC’s HERO® product is highly effective in part due to its premixed formula of 11.25% weight by volume of bifenthrin and 3.75% weight by volume of zeta-cypermethrin. An excerpt of the product label for the HERO® formulation is shown below. A full copy of this product label is attached hereto as Exhibit D.



18. In May 2024, FMC became aware for the first time that Sharda imported quantities of a premixed insecticide comprising a combination of bifenthrin and a cyano-pyrethroid in a ratio between about 10:1 to about 1:100 (the “Accused Product”), in this case in the specific formulation

of 11.25% weight by volume of bifenthrin and 3.75% weight by volume of zeta-cypermethrin, into the United States, presumably to be marketed and sold in direct competition with FMC’s HERO® insecticide. A bill of lading reflecting Sharda’s importation of the Accused Product is attached hereto as Exhibit E.

19. Sharda received a conditional EPA registration in September 2023 for a 11.25% bifenthrin, 3.75% zeta-cypermethrin insecticide formula, paving the way for Sharda to eventually import and sell its generic knock-off of FMC’s HERO® insecticide in the United States under the brand name WINNER. A copy of Sharda’s conditional issuance of EPA Reg. No. 83529-237 for WINNER is attached hereto as Exhibit F.

20. Sharda’s WINNER insecticide product is an exemplar of the Accused Product.

21. Upon information and belief, Sharda is and was aware of the fact that FMC’s HERO® insecticide formulation and methods of treatment are patent-protected.

22. Sharda’s WINNER product is an insecticide that contains a formula of 11.25% bifenthrin and 3.75% zeta-cypermethrin, a formula identical to FMC’s HERO® composition. An excerpt of the product label for Sharda’s WINNER product is shown below. A full copy of this product label is attached hereto as Exhibit G.

ZETA-CYPERMETHRIN GROUP 3A INSECTICIDE

# Winner

ACTIVE INGREDIENTS:	WT. BY %
Bifenthrin: (2-methyl [1,1'-biphenyl]-3-yl)methyl 3-(2-chloro-3,3,3-trifluoro-1-propenyl)-2,2-dimethylcyclopropanecarboxylate. ....	11.25%
Zeta-Cypermethrin: (S)-cyano(3-phenoxyphenyl)methyl-3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropanecarboxylate. ....	3.75%
OTHER INGREDIENTS*:	85.00%
TOTAL:	100.00%

Contains 0.927 pound bifenthrin and 0.309 pound zeta-cypermethrin per gallon.  
 \*Cis isomers 97% minimum; trans isomers 3% maximum.  
 \*\*Cis/trans isomer ratio: Max 75% (±) cis and Min. 25% (±) trans  
 \*Contains Petroleum Distillates.

23. As the images and Exhibits D and G show, the product labels for FMC's HERO® insecticide and Sharda's WINNER insecticide contain the exact same formula of 11.25% bifenthrin + 3.75% zeta-cypermethrin.

24. Upon information and belief, in violation of FMC's patent rights, Sharda has imported quantities of the Accused Product, specifically, at least 148 cartons (each carton comprising two 9.47-liter containers) of 11.25% bifenthrin + 3.75% zeta-cypermethrin premixed insecticide composition, into the United States.

25. Upon information and belief, along with importing the Accused Products into the United States, Sharda either has sold, offered for sale, or intends to sell or offer for sale, the Accused Products in the United States. Sharda lists WINNER insecticide on the "Insecticides" section of its website, located at <https://shardausa.com/product/winner/> (the "WINNER webpage listing"). The WINNER webpage listing features links to download the Product Label for WINNER, the WINNER Safety Data Sheet, and contains a link labeled "Find Your Local Rep." which directs consumers and potential consumers to sales representative contact persons by region. A printout of the WINNER webpage listing is attached hereto as Exhibit H.

26. Upon information and belief, Sharda intends to offer the generic Accused Product at a significantly lower price point than FMC's patented HERO® product, which, absent relief from this Court, will lead to irreparable price erosion for FMC's patent-protected product.

27. The insecticides offered by FMC and Sharda, and covered by the Asserted Patents, are seasonal products that are primarily purchased and used by farmers during the growing season. Over the past three years, 75% of grower purchases of HERO® insecticide have been during the months of June, July, and August, and about 89% of grower application of the HERO® insecticide

takes place during the months of June, July, and August. Thus, the threatened harm to FMC is imminent.

**COUNT I:**

***Sharda's Infringement of the '857 Patent under 35 U.S.C. § 271***

28. FMC incorporates Paragraphs 1- 26 by reference as if fully incorporated here.

29. Upon information and belief, Sharda has infringed and continues to infringe within the meaning of 35 U.S.C. § 271 by, without FMC's authority, importing, making, using, selling, and/or offering to sell in the United States products covered by the '857 Patent.

30. According to Sharda's own advertisements, product label, and conditional EPA registration, Sharda has directly and indirectly infringed at least claim 1, 2, 3, and 6 of the '857 Patent in violation of 35 U.S.C. § 271 by importing, using, offering for sale, and/or selling an insecticidal composition comprising bifenthrin and cyano-pyrethroids made and used in accordance with FMC's patented composition and method, without authorization from FMC, and inducing consumers to practice the patented method of pest control.

31. According to Sharda's product label, the Accused Product comprises the following formula.

<b>ACTIVE INGREDIENTS:</b>	<b>WT. BY %</b>
Bifenthrin: (2-methyl [1,1'-biphenyl]-3-yl)methyl 3-(2-chloro-3,3,3-trifluoro-1-propenyl)-2,2-dimethyl-cyclopropanecarboxylate.....	11.25%
Zeta-Cypermethrin: (S)-cyano(3-phenoxyphenyl)methyl-3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropanecarboxylate.....	3.75%
<b>OTHER INGREDIENTS*:</b> .....	<b>85.00%</b>
<b>TOTAL:</b> .....	<b>100.00%</b>

Contains 0.927 pound bifenthrin and 0.309 pound zeta-cypermethrin per gallon.  
 \*Cis isomers 97% minimum; trans isomers 3% maximum,  
 \*\*Cis/trans isomer ratio: Max 75% (±) cis and Min, 25% (±) trans  
 \*Contains Petroleum Distillates.

32. Claim 1 of the '857 Patent claims as follows:

1. An insecticidal composition comprising *bifenthrin* and a cyano-pyrethroid selected from the group consisting of acrinathrin, cycloprothrin, deltamethrin, tralomethrin, fenvalerate, cyfluthrin, beta-cyfluthrin, flucythrinate, alpha-cypermethrin,



beta-cypermethrin, theta-cypermethrin, *zeta-cypermethrin*, cyphenothrin, cyhalothrin, lambda-cyhalothrin, esfenvalerate, fluvalinate and fenpropathrin, wherein the composition has *a ratio of bifenthrin:cyano-pyrethroid of from about 10:1 to about 1:100*. [Emphasis added.]

33. Claim 1 of the '857 Patent requires a composition comprising bifenthrin and a cyano-pyrethroid.

34. In Claim 1 of the '857 Patent, zeta-cypermethrin is within the group of selected cyano-pyrethroids.

35. Sharda's WINNER product label lists bifenthrin and zeta-cypermethrin as active ingredients.

36. Claim 1 of the '857 Patent requires a composition ratio of bifenthrin:cyano-pyrethroid of from about 10:1 to about 1:100. Sharda's WINNER product contains 11.25% bifenthrin and 3.75% zeta-cypermethrin. This correlates to a ratio of 3:1 bifenthrin:cyano-pyrethroid, which falls within the range covered by Claim 1.

37. Based on the foregoing, Sharda's WINNER product includes all of the limitations of Claim 1 of the '857 Patent.

38. Claim 2 of the '857 Patent claims as follows:

2. The insecticidal composition of claim 1 further comprising in admixture at least *one agriculturally acceptable extender or adjuvant*. [Emphasis added.]

39. The label for the Accused Product contains "other ingredients," including petroleum distillates.

40. Petroleum distillates are adjuvants.

41. Based on the foregoing, Sharda's WINNER product includes all of the limitations of Claim 2 of the '857 Patent.

42. Claim 3 of the '857 Patent claims as follows:

3. The insecticidal composition of claim 2 wherein the cyano-pyrethroid is at least one selected from the group consisting of: deltamethrin; cyfluthrin; alpha-cypermethrin; ***zeta-cypermethrin***; lambda-cyhalothrin; and esfenvalerate. [Emphasis added.]

43. Claim 3 requires a cyano-pyrethroid, where zeta-cypermethrin is listed in this group of cyano-pyrethroids. The label for Sharda's WINNER product states that it contains zeta-cypermethrin as an active ingredient.

44. Based on the foregoing, Sharda's WINNER product includes all of the limitations of Claim 3 of the '857 Patent.

45. Claim 6 of the '857 Patent claims as follows:

6. A method for controlling ***unwanted insects*** comprising the step of applying a composition of claim 1 to a locus where insects are present or are expected to be present. [Emphasis added.]

46. The label for Sharda's WINNER product directs others to "[u]se this product only in accordance with its labeling..." Exhibit G at 3. To control unwanted insects, Sharda directs users of its WINNER product to "[b]ase timing and frequency of applications on insect populations reaching locally determined economic threshold levels." *Id.* at 7. Sharda's product label similarly instructs third parties, "To Control Boll Weevil: Apply Sharda Bifen. 11.25% + Zeta-Cyper. 3.75% EC at an interval of 3 - 4 days until pest numbers are reduced to acceptable levels." *Id.* at 7.

47. Based on at least the foregoing, Sharda induces others to infringe Claim 6 of the '857 Patent.

48. Upon information and belief, Sharda's infringing acts will continue unless restrained by this Court.

49. A claim chart comparing the asserted claims of the '857 Patent to the Accused Product is attached hereto as Exhibit I.

50. The Accused Product, Sharda's WINNER product, and any other Sharda products comprising a combination of bifenthrin and cyano-pyrethroid in any ratio from about 10:1 to about 1:100, directly infringe at least one claim of the '857 Patent, pursuant to 35 U.S.C. § 271(a).

51. By importing, selling, and offering for sale the Accused Product in the United States to consumers and end users, Sharda specifically intends and directs that others use the Accused Product in an infringing manner, thereby inducing infringement of the '857 Patent pursuant to 35 U.S.C. § 271(b).

52. FMC has been and will continue to be irreparably harmed by Sharda's infringement of the '857 Patent.

53. Sharda's infringement of the '857 Patent has caused and is continuing to cause FMC to suffer irreparable harm, which harm is not fully compensable by monetary damages, and FMC is entitled to injunctive relief to prevent further infliction of such harm.

54. FMC has suffered monetary damages as a result of the direct and indirect infringing activities of Sharda and will continue to suffer damages as long as those infringing activities continue.

55. FMC is entitled to recover damages adequate to compensate FMC for Sharda's infringement of the '857 Patent.

56. By virtue of at least the filing of this Complaint, Sharda has actual notice of the '857 Patent and the grounds for infringement, such that any future infringing acts will be willful.

**COUNT II:*****Sharda's Infringement of the '416 Patent under 35 U.S.C. § 271***

57. FMC incorporates Paragraphs 1-56 by reference as if fully incorporated here.

58. Upon information and belief, Sharda has infringed and continues to infringe within the meaning of 35 U.S.C. § 271 by, without FMC's authority, importing, making, using, selling, and/or offering to sell in the United States products covered by the '416 Patent.

59. According to Sharda's own advertisements, product label, and conditional EPA registration, Sharda has infringed at least claims 1, 2, 4-14, and 16 of the '416 Patent in violation of 35 U.S.C. § 271 by manufacturing, importing, using, offering for sale, and/or selling an insecticidal composition made and used in accordance with FMC's patented composition and method, without authorization from FMC, and inducing consumers to practice the patented method of pest control.

60. According to Sharda's product label, the WINNER product comprises the following formula:

ACTIVE INGREDIENTS:	WT. BY %
Bifenthrin: (2-methyl [1,1'-biphenyl]-3-yl)methyl 3-(2-chloro-3,3,3-trifluoro-1-propenyl)-2,2-dimethyl-cyclopropanecarboxylate. ....	11.25%
Zeta-Cypermethrin: (S)-cyano(3-phenoxyphenyl)methyl-3-(2,2-dichloroethyl)-2,2-dimethylcyclopropanecarboxylate. ....	3.75%
<b>OTHER INGREDIENTS*:</b> .....	85.00%
<b>TOTAL:</b> .....	<b>100.00%</b>

Contains 0.927 pound bifenthrin and 0.309 pound zeta-cypermethrin per gallon.  
 \*Cis isomers 97% minimum; trans isomers 3% maximum,  
 \*\*Cis/trans isomer ratio: Max 75% (±) cis and Min, 25% (±) trans  
 \*Contains Petroleum Distillates.

61. Claim 1 of the '416 Patent claims as follows:

1. A *miticidal* composition comprising *bifenthrin* and a cyano-pyrethroid selected from the group consisting of deltamethrin, cyfluthrin, alpha-cypermethrin, *zeta-cypermethrin*, lambda-cyhalothrin, and esfenvalerate, wherein *the weight ratio of bifenthrin to cyano-pyrethroid is from 10:1 to 1:30*. [Emphasis added.]

62. Claim 1 of the '416 Patent requires a miticidal composition. The Sharda WINNER product label states that the WINNER product can be used to control mites. *See* Exhibit G at 9.

63. Claim 1 of the '416 Patent requires a composition comprising bifenthrin and a cyano-pyrethroid.

64. In Claim 1 of the '416 Patent, zeta-cypermethrin is within the group of selected cyano-pyrethroids.

65. The Sharda WINNER product label lists bifenthrin and zeta-cypermethrin as active ingredients.

66. Claim 1 of the '416 Patent requires a composition ratio of bifenthrin:cyano-pyrethroid of from about 10:1 to about 1:30. The Sharda WINNER product contains 11.25% bifenthrin and 3.75% zeta-cypermethrin. This correlates to a ratio of 3:1 of bifenthrin:cyano-pyrethroid, which falls within the range covered by Claim 1.

67. Based on the foregoing, the Sharda WINNER product includes all of the limitations of Claim 1 of the '416 Patent.

68. Claim 2 of the '416 Patent claims as follows:

2. The composition of claim 1 wherein the cyano-pyrethroid is ***zeta-cypermethrin***. [Emphasis added.]

69. Claim 2 requires a cyano-pyrethroid, where zeta-cypermethrin is listed in this group of cyano-pyrethroids.

70. The product label for Sharda's WINNER product lists zeta-cypermethrin as an active ingredient.

71. Based on the foregoing, the Sharda WINNER product includes all of the limitations of Claim 2 of the '416 Patent.

72. Claim 4 of the '416 Patent claims as follows:

4. The composition of claim 1 further comprising *an agriculturally acceptable extender or adjuvant*. [Emphasis added.]

73. The product label for Sharda's WINNER product states that it contains "other ingredients," including petroleum distillates.

74. Petroleum distillates are adjuvants.

75. Based on the foregoing, the Sharda WINNER product includes all of the limitations of Claim 4 of the '416 Patent.

76. Claim 5 of the '416 Patent claims as follows:

*5. A method for controlling unwanted insects or mites comprising applying a composition comprising bifenthrin and a cyano-pyrethroid selected from the group consisting of deltamethrin, cyfluthrin, alpha-cypermethrin, zeta-cypermethrin, lambda-cyhalothrin, and esfenvalerate, wherein the weight ratio of bifenthrin to cyano-pyrethroid is from 10:1 to 1:30 to the foliar portion of a plant.* [Emphasis added.]

77. Claim 5 of the '416 Patent directs others to apply a composition comprising bifenthrin and a cyano-pyrethroid. Zeta-cypermethrin is within the group of selected cyano-pyrethroids. The product label for Sharda's WINNER product lists bifenthrin and zeta-cypermethrin as active ingredients.

78. Claim 5 of the '416 Patent requires that the composition to be applied has a weight ratio of bifenthrin to cyano-pyrethroid from about 10:1 to about 1:30. The product label for Sharda's WINNER product states that it contains 11.25% bifenthrin and 3.75% zeta-cypermethrin. This correlates to a ratio of 3:1 of bifenthrin:cyano-pyrethroid, which falls within the range covered by Claim 5.

79. Claim 5 of the '416 Patent requires applying the composition to the foliar portion of a plant. The product label for Sharda's WINNER product includes a method of application

section that directs applying the composition to the foliar portion of a plant. Exhibit G at 11, 12, and 14.

80. Based on the foregoing, Sharda induces others to infringe Claim 5 of the '416 Patent.

81. Claim 6 of the '416 Patent claims as follows:

6. The composition of claim 1 wherein *the weight ratio of bifenthrin to cyano-pyrethroid is from 4:1 and 1:4*. [Emphasis added.]

82. Claim 6 of the '416 Patent requires a weight ratio of bifenthrin to cyano-pyrethroid is from 4:1 and 1:4.

83. The product label for Sharda's WINNER product states that it contains 11.25% bifenthrin and 3.75% zeta-cypermethrin. This correlates to a ratio of 3:1 of bifenthrin:cyano-pyrethroid, which falls within the range covered by Claim 6.

84. Based on the foregoing, the Sharda WINNER product includes all of the limitations of Claim 6 of the '416 Patent.

85. Claim 7 of the '416 Patent claims as follows:

7. The composition of claim 6 wherein the weight ratio of bifenthrin to cyano-pyrethroid is **from 3:1 and 1:3**. [Emphasis added.]

86. Claims 7 of the '416 Patent requires a weight ratio of bifenthrin to cyano-pyrethroid from 3:1 and 1:3.

87. The product label for Sharda's WINNER product states that it contains 11.25% bifenthrin and 3.75% zeta-cypermethrin. This correlates to a ratio of 3:1 of bifenthrin:cyano-pyrethroid, which falls within the range covered by Claim 7.

88. Based on the foregoing, the Sharda WINNER product includes all of the limitations of Claim 7 of the '416 Patent.

89. Claim 8 of the '416 Patent claims as follows:

8. The composition of claim 6 wherein the *cyano-pyrethroid is zeta-cypermethrin*. [Emphasis added.]

90. The product label for the Sharda WINNER product lists zeta-cypermethrin as an active ingredient.

91. Based on the foregoing, the Sharda WINNER product includes all of the limitations of Claim 8 of the '416 Patent.

92. Claim 9 of the '416 Patent claims as follows:

9. The method of claim 5 wherein the weight ratio of bifenthrin to cyano-pyrethroid is *from 4:1 and 1:4*. [Emphasis added.]

93. Claim 9 of the '416 Patent requires a weight ratio of bifenthrin to cyano-pyrethroid from 4:1 and 1:4. The product label for the Sharda WINNER product states that it contains 11.25% bifenthrin and 3.75% zeta-cypermethrin. This correlates to a ratio of 3:1 of bifenthrin:cyano-pyrethroid, which falls within the range covered by Claim 9.

94. Based on at least the foregoing, Sharda induces others to infringe claim 9 of the '416 Patent.

95. Claim 10 of the '416 Patent claims as follows:

10. The method of claim 9 wherein the cyano-pyrethroid is *zeta-cypermethrin*. [Emphasis added.]

96. Claim 10 requires a method from Claim 9 where the cyano-pyrethroid is zeta-cypermethrin. The product label for Sharda's WINNER product lists zeta-cypermethrin as an active ingredient.

97. Based on at least the foregoing, Sharda induces others to infringe claim 10 of the '416 Patent.

98. Claim 11 of the '416 Patent claims as follows:



11. *A foliar insecticidal or miticidal composition* comprising *bifenthrin and a cyano-pyrethroid* selected from the group consisting of deltamethrin, cyfluthrin, alpha-cypermethrin, *zeta-cypermethrin*, lambda-cyhalothrin, and esfenvalerate, wherein the weight ratio of bifenthrin to cyano-pyrethroid is *from 10:1 to 1:30*. [Emphasis added.]

99. Claim 11 of the '416 Patent requires a composition comprising bifenthrin and a cyano-pyrethroid. Zeta-cypermethrin is within the group of selected cyano-pyrethroids. The product label for the Sharda WINNER product lists bifenthrin and zeta-cypermethrin as active ingredients.

100. Claim 11 of the '416 Patent requires a weight ratio of bifenthrin to cyano-pyrethroid of from about 10:1 to about 1:30. The product label for the Sharda WINNER product states that it contains 11.25% bifenthrin and 3.75% zeta-cypermethrin. This correlates to a ratio of 3:1 of bifenthrin:cyano-pyrethroid, which falls within the range covered by Claim 11.

101. Based on the foregoing, the Sharda WINNER product includes all of the limitations of Claim 11 of the '416 Patent.

102. Claim 12 of the '416 Patent claims as follows:

12. The composition of claim 11 wherein the weight ratio of bifenthrin to cyano-pyrethroid is from *4:1 and 1:4*.

103. Claim 12 of the '416 Patent requires a weight ratio of bifenthrin to cyano-pyrethroid from 4:1 and 1:4. The product label for the Sharda WINNER product states that it contains 11.25% bifenthrin and 3.75% zeta-cypermethrin. This correlates to a ratio of 3:1 of bifenthrin:cyano-pyrethroid, which falls within the range covered by Claim 12.

104. Based on the foregoing, the Sharda WINNER product includes all of the limitations of Claim 12 of the '416 Patent.

105. Claim 13 of the '416 Patent claims as follows:

13. The composition of claim 12 wherein the weight ratio of bifenthrin to cyano-pyrethroid is from **3:1 and 1:3**.

106. Claim 13 of the '416 Patent requires a weight ratio of bifenthrin to cyano-pyrethroid from 3:1 and 1:3. The product label for the Sharda WINNER product states that it contains 11.25% bifenthrin and 3.75% zeta-cypermethrin. This correlates to a ratio of 3:1 of bifenthrin:cyano-pyrethroid, which falls within the range covered by Claim 13.

107. Based on the foregoing, the Sharda WINNER product includes all of the limitations of Claim 13 of the '416 Patent.

108. Claim 14 of the '416 Patent claims as follows:

14. The composition of claim 11 wherein the cyano-pyrethroid is ***zeta-cypermethrin***.

109. Claim 14 requires a method from Claim 11 where the cyano-pyrethroid is zeta-cypermethrin. The product label for Sharda's WINNER product lists zeta-cypermethrin as an active ingredient.

110. Based on the foregoing, the Sharda WINNER product includes all of the limitations of Claim 14 of the '416 Patent.

111. Claim 16 of the '416 Patent claims as follows:

16. The composition of claim 11 further comprising ***an agriculturally acceptable extender or adjuvant***. [Emphasis added.]

112. The product label for Sharda's WINNER product states that it contains "other ingredients," including petroleum distillates.

113. Petroleum distillates are adjuvants.

114. Based on the foregoing, the Sharda WINNER product includes all of the limitations of Claim 16 of the '416 Patent.

115. A claim chart comparing the asserted claims of the '416 Patent to the Accused Product is attached hereto as Exhibit I.

116. The Accused Product, and any other Sharda products comprising a combination of bifenthrin and cyano-pyrethroid in any ratio from about 10:1 to about 1:100, directly infringe at least one claim of the '416 Patent, pursuant to 35 U.S.C. § 271(a).

117. By importing and selling the Accused Product in the United States to consumers and end users, Sharda specifically intends and directs that others use the Accused Product in an infringing manner, thereby inducing infringement of the '416 Patent pursuant to 35 U.S.C. § 271(b).

118. FMC has been and will continue to be irreparably harmed by Sharda's infringement of the '416 Patent unless and until such infringement is enjoined by this Court.

119. Sharda's infringement of the '416 Patent has caused and is continuing to cause FMC to suffer irreparable harm, which harm is not fully compensable by monetary damages, and FMC is entitled to injunctive relief to prevent further infliction of such harm.

120. FMC has suffered monetary damages as a result of the direct and indirect infringing activities of Sharda and will continue to suffer damages as long as Sharda's infringing activities continue.

121. FMC is entitled to recover damages adequate to compensate FMC for Sharda's infringement of the '416 Patent.

122. By virtue of at least the filing of this Complaint, Sharda has actual notice of the '416 Patent and the grounds for infringement, such that any future infringing acts will be willful.

**REQUEST FOR RELIEF**

WHEREFORE, FMC respectfully requests the following relief:

1. A judgment that Defendant Sharda has directly infringed one or more claims of the Asserted Patents, and/or that Defendant Sharda has indirectly infringed one or more claims of the Asserted Patents by way of inducing and/or contributing to direct infringement by its customers;

2. Entry of a preliminary and a permanent injunction restraining and enjoining Defendant Sharda, its officers, agents, employees, and those persons in privity with them and those acting in active concert or participation with Defendant Sharda, from any further direct or indirect infringement of the Asserted Patents for the full terms thereof, including any extensions, pursuant to 35 U.S.C. § 283;

3. An Order instructing Defendant to destroy:

- i. Any and all remaining Accused Products;
- ii. Any and all products created or derived from the Accused Products; and
- iii. Any and all scientific or regulatory data and analysis generated as a result of Defendant Sharda's use of Accused Products or any product created or derived from the Accused Products;

4. An Order instructing Defendant Sharda to file with this Court and serve upon FMC a report in writing and under oath setting forth in detail the manner and form in which Defendant Sharda has complied with any permanent injunction or Order resulting from this case within thirty (30) days after entry of such permanent injunction or Order;

5. A judgment that FMC be awarded all appropriate damages under 35 U.S.C. § 284 for Defendant Sharda's past infringement and any continuing or future infringement of the Asserted Patents, up until the date such judgment is entered, including pre- and post-judgment interest, costs, and disbursements pursuant to 35 U.S.C. § 284;

6. A finding that Defendant Sharda's infringing acts after receiving notice of this Complaint and the exhibits thereto are willful, and an accompanying award of treble damages pursuant to 35 U.S.C. § 284;

7. A finding that this action is an exceptional case under 35 U.S.C. § 285 such that FMC be awarded costs and expenses, including reasonable attorneys' fees, that FMC incurs in prosecuting this action; and

8. A judgment or award of such other and further relief as this Court deems just and proper.

**DEMAND FOR JURY TRIAL**

FMC demands a jury trial on all claims and issues so triable.

Dated: June 4, 2024

Respectfully submitted,

ICE MILLER LLP

/s/ Lesley M. Grossberg

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*FMC Corporation*

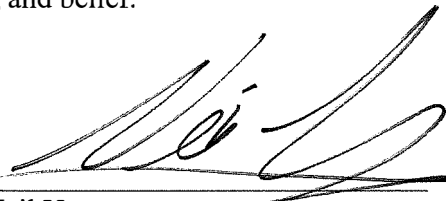
**VERIFICATION**

I, Neil Young, Ph.D., pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am the Portfolio Manager for Insecticides and Biologicals at Plaintiff FMC Corporation, and I am authorized to make this verification on behalf of Plaintiff FMC Corporation.
2. I have read the Complaint for Patent Infringement, am familiar with its contents, and, based on a reasonable inquiry conducted with the assistance of counsel and other employees of FMC Corporation, the Complaint, the exhibits thereto, and the statements contained therein are accurate, have evidentiary support or are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery, and are not being made for any improper purpose.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my information, knowledge, and belief.

Executed at Philadelphia, PA, on June 4, 2024.

  
Neil Young