



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

MAY 02 2011

REPLY TO THE ATTENTION OF:

LC-8J

CERTIFIED MAIL

Receipt No. 7001 0320 0005 8933 0641

Mr. Stanley H. Abramson
Partner
Arent Fox LLP | Attorneys at Law
1050 Connecticut Avenue, NW
Washington, D.C. 20036-5339

ICL-IP America, Inc. and Clearon Corp., Docket No. FIFRA-05-2011-0011

Dear Mr. Abramson:

Enclosed are two copies of a fully executed Consent Agreement and Final Order, in resolution of the above case. This document was filed on May 2, 2011 with the Regional Hearing Clerk.

The civil penalty in the amount of \$465,400 is to be paid in the manner described in paragraphs 184 through 186. Please be certain that the number BD 2751145P011 and the docket number are written on both the transmittal letter and on the check. Payment is due by June 1, 2010 (within 30 calendar days of the filing date).

Thank you for your cooperation in resolving this matter.

Sincerely,

A handwritten signature in cursive script that reads "Estrella Calvo".

Estrella Calvo
Pesticides and Toxics Compliance Section
Chemicals Management Branch

Enclosures

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)	Docket No. FIFRA-05-2011-0011
)	
ICL-IP America, Inc.)	Proceeding to Assess a Civil Penalty
South Charleston, West Virginia)	Under Section 14(a) of the Federal
)	Insecticide, Fungicide, and Rodenticide
and)	Act, 7 U.S.C. § 136l(a)
)	
Clearon Corp.)	
South Charleston, West Virginia)	
)	
Respondents.)	
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MAY 02 2011

**REGIONAL HEARING CLERK
USEPA
REGION 5**

**Consent Agreement and Final Order
Preliminary Statement**

1. This is an administrative action commenced and concluded under Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. § 136l(a), and Sections 22.13(b) and 22.18(b)(2) and (3) of the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* (Consolidated Rules) as codified at 40 C.F.R. Part 22.

2. The Complainant, the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region 5, has been delegated the authority to settle this matter.

3. The Respondents are ICL-IP America, Inc. (ICL) and Clearon Corp. (Clearon), corporations doing business in the State of West Virginia.

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

5. The parties agree that settling this action without the filing of a complaint or the

adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondents consent to the assessment of the civil penalty specified in this CAFO, and to the terms of this CAFO.

Jurisdiction and Waiver of Right to Hearing

7. Respondents admit the jurisdictional allegations in this CAFO and neither admit nor deny the factual allegations in this CAFO.

8. Respondents waive their right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, and their right to appeal this CAFO.

9. Respondents certify to the best of their knowledge, and subject to the compliance review of their pesticide activities that is currently underway, that they are in compliance with FIFRA, 7 U.S.C. §§ 136 to 136y. Clearon is conducting a comprehensive review of its labeling and labeling practices and its relationships with distributors and other third parties for products regulated by the U.S. Environmental Protection Agency under FIFRA. In support of this review, a prominent national consulting firm, Exponent, Inc., has been retained to work with the company and its legal counsel at Arent Fox LLP. The individuals working on this matter at Arent Fox LLP and Exponent's Center for Chemical Regulation and Food Safety have extensive experience in pesticide compliance matters. It is anticipated that it will take several months to complete this effort.

Statutory and Regulatory Background

10. Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A), states, in pertinent part, that it is unlawful for any person in any state to distribute or sell to any person any pesticide that is not registered under Section 3 of FIFRA, 7 U.S.C. § 136a or whose registration has been canceled.

11. Section 12(a)(1)(B) of FIFRA, 7. U.S.C. §136j(a)(1)(B), states, in pertinent part, that it is unlawful for any person in any state to distribute or sell to any person any registered pesticide if any claims made for it as a part of its distribution or sale substantially differs from any claims made for it as part of the statement required in connection with its registration under section 3 of FIFRA.

12. A substance is considered to be intended for a pesticidal purpose, and thus to be a pesticide requiring registration, if the person who distributes or sells the substance claims, states, or implies (by labeling or otherwise) that the substance can or should be used as a pesticide. 40 C.F.R. § 152.15(a)(1).

13. 40 C.F.R. § 152.132 states that a registrant may distribute or sell his registered product under another person's name and address instead of (or in addition to) his own. The product is referred to as a "distributor product."

14. 40 C.F.R. § 152.132 states that supplemental distribution is permitted upon notification to the Agency if all of the following conditions are met: (a) The registrant has submitted to the Agency for each distributor product a statement signed by both the registrant and the distributor listing the names and addresses of the registrant and the distributor, the distributor's company number, the additional brand name(s) to be used, and the registration number of the registered product, (b) The distributor product is produced, packaged and labeled in a registered establishment operated by the same producer who produces, packages, and labels the registered product, (c) The distributor product is not repackaged (remains in the producer's unopened containers), (d) The label of the distributor product is the same as that of the registered product, except that the product name of the distributor product may be different, the name and address of the distributor may appear instead of that of the registrant, the registration

number of the registered product must be followed by a dash, followed by the distributor's company number, the establishment number must be that of the final establishment at which the product was produced, and specific claims may be deleted, provided that no other changes are necessary, and (e) Voluntary cancellation of a product applies to the registered product and all distributor products distributed or sold under that registration number.

15. 40 C.F.R. § 152.132 also specifies that a distributor is considered an agent of the registrant for all intents and purposes under FIFRA, and both the registrant and the distributor may be held liable for violations pertaining to the distributor product.

16. The term "person" as defined in Section 2(s) of FIFRA, 7 U.S.C. § 136(s) means any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not.

17. The term "registrant" as defined in Section 2(y) of FIFRA, 7 U.S.C. § 136(s) means a person who has registered any pesticide pursuant to the provisions of FIFRA.

18. The term "distribute or sell" is defined, in Section 2(gg) of FIFRA, 7 U.S.C. § 136(gg) and 40 C.F.R. § 152.3, as "to distribute, sell, offer for sale, hold for distribution, hold for shipment, or receive and (having so received) deliver or offer to deliver."

19. The term "pests" is defined in Section 2(t) of FIFRA, 7 U.S.C. § 136(t), and further defined in 40 C.F.R. § 152.5(c) "as any insect, rodent, nematode, fungus, weed, or any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organism..."

20. The term "pesticide" is defined at Section 2(u) of FIFRA, 7 U.S.C. § 136(u) and 40 C.F.R. § 152.3 and is generally regarded as any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest.

21. The Administrator of EPA may assess a civil penalty against any registrant,

commercial applicator, wholesaler, dealer, retailer, other distributor who violates any provision of FIFRA of up to \$6,500 for each offense that occurred after March 15, 2004 through January 12, 2009 and up to \$7,500 for each offense that occurred after January 12, 2009, pursuant to Section 14(a)(1) of FIFRA, 7 U.S.C. § 136l(a)(1), and 40 C.F.R. Part 19.

Factual Allegations and Alleged Violations

22. Respondent, ICL formerly known as ICL Supresta Inc., is a “person” as defined at Section 2(s) of FIFRA, 7 U.S.C. § 136(s).

23. On or about May 21, 1987, ICL, located at 95 Maccorkle Avenue, Southwest, South Charleston, West Virginia 25303, registered its pesticide product, “Halogene G” with EPA.

24. EPA assigned EPA Registration Number (EPA Reg. No.) 8622-29 to ICL’s pesticide product, “Halogene G.”

25. Respondent, ICL, is a “registrant” as defined at Section 2(y) of FIFRA, 7 U.S.C. § 136(y).

26. On or about November 5, 1996, ICL and Clearon submitted a Notice of Supplemental Distribution of a Registered Pesticide Product to EPA for the pesticide product “Halogene G Granular (aka Halogene 29).”

27. The Notice of Supplemental Distribution of a Registered Pesticide Product listed the distributor as Clearon Corp.

28. Clearon is located at 95 Maccorkle Avenue, Southwest, South Charleston, West Virginia 25303.

29. The company number assigned to Clearon is 69470.

30. The EPA Reg. No. for the pesticide product “Halogene G Granular (aka Halogene 29)” is 8622-29-69470.

31. “Halogene G Granular (aka Halogene 29),” EPA Reg. No. 8622-29-69470, is a “pesticide” as that term is defined in Section 2(u) of FIFRA, 7 U.S.C. § 136(u).

32. Respondent, Clearon, is a “person” as defined at Section 2(s) of FIFRA, 7 U.S.C. § 136(s).

33. Respondent, Clearon, is considered an agent of the registrant, ICL, for all intents and purposes under FIFRA. See 40 C.F.R. § 152.132.

34. Respondent, Clearon, distributed or sold the distributor product as “Halogene G,” EPA Reg. No. 8622-29-69470, with labeling that did not match the EPA-accepted label for ICL’s pesticide product, EPA Reg. No. 8622-29, dated May 31, 2006.

35. Sometime before 2007 employees of Clearon established an oral agreement with Recipient Cs Inc. (21st Century) to allow for the repackaging and relabeling of the distributor product “Halogene G,” EPA Reg. No. 8622-29-69470, into the “Magnabox” pesticide product.

36. 21st Century is located at 1424 Brook Drive, Downers Grove, Illinois 60515.

37. 21st Century distributed or sold the repackaged and relabeled pesticide product as “Halogene G,” EPA Reg. No. 8622-29-69470, while also identifying it as “Magnabox” in supplemental labeling.

38. The “Magnabox” as distributed or sold by 21st Century, with explicit approval by Clearon, did not contain accepted directions for use, precautionary language or storage and disposal directions.

39. 21st Century’s repackaging and relabeling of the pesticide product “Halogene G,” EPA Reg. No. 8622-29-69470, subjected 21st Century to the registration requirements under section 3 of FIFRA.

Halogene G
EPA Reg. No. 8622-29-69470

40. On or about August 21, 2007, Clearon distributed or sold the distributor product with EPA Reg. No. 8622-29-69470 to Recipient A.

41. On or about September 14, 2007, Clearon distributed or sold the distributor product with EPA Reg. No. 8622-29-69470 to Recipient B.

42. On or about November 13, 2007, Clearon distributed or sold the distributor product with EPA Reg. No. 8622-29-69470 to Recipient C.

43. On or about November 29, 2007, Clearon distributed or sold the distributor product with EPA Reg. No. 8622-29-69470 to Recipient D.

44. On or about December 19, 2007, Clearon distributed or sold the distributor product with EPA Reg. No. 8622-29-69470 to Recipient B.

45. On or about January 10, 2008, Clearon distributed or sold the distributor product with EPA Reg. No. 8622-29-69470 to Recipient E.

46. On or about January 22, 2008, Clearon distributed or sold the distributor product with EPA Reg. No. 8622-29-69470 to Recipient B.

47. On or about April 28, 2008, Clearon distributed or sold the distributor product with EPA Reg. No. 8622-29-69470 to Recipient D.

48. On or about April 29, 2008, Clearon distributed or sold the distributor product with EPA Reg. No. 8622-29-69470 to Recipient A.

49. On or about May 5, 2008, Clearon distributed or sold the distributor product with EPA Reg. No. 8622-29-69470 to Recipient D.

50. On or about May 5, 2008, Clearon distributed or sold the distributor product with EPA Reg. No. 8622-29-69470 to Recipient D.

51. On or about May 8, 2008, Clearon distributed or sold the distributor product with EPA Reg. No. 8622-29-69470 to Recipient D.
52. On or about June 16, 2008, Clearon distributed or sold the distributor product with EPA Reg. No. 8622-29-69470 to Recipient D.
53. On or about June 23, 2008, Clearon distributed or sold the distributor product with EPA Reg. No. 8622-29-69470 to Recipient A.
54. On or about June 26, 2008, Clearon distributed or sold the distributor product with EPA Reg. No. 8622-29-69470 to Recipient A.
55. On or about September 15, 2008, Clearon distributed or sold the distributor product with EPA Reg. No. 8622-29-69470 to Recipient D.
56. On or about October 16, 2008, Clearon distributed or sold the distributor product with EPA Reg. No. 8622-29-69470 to Recipient A.
57. On or about January 8, 2009, Clearon distributed or sold the distributor product with EPA Reg. No. 8622-29-69470 to Recipient F.
58. On or about January 19, 2009, Clearon distributed or sold the distributor product with EPA Reg. No. 8622-29-69470 to Recipient A.
59. On or about January 30, 2009, Clearon distributed or sold the distributor product with EPA Reg. No. 8622-29-69470 to Recipient B.
60. On or about April 6, 2009, Clearon distributed or sold the distributor product with EPA Reg. No. 8622-29-69470 to Recipient B.
61. On or about April 14, 2009, Clearon distributed or sold the distributor product with EPA Reg. No. 8622-29-69470 to Recipient B.
62. On or about June 19, 2009, Clearon distributed or sold the distributor product with

EPA Reg. No. 8622-29-69470 to Recipient B.

63. On or about July 10, 2009, Clearon distributed or sold the distributor product with EPA Reg. No. 8622-29-69470 to Recipient G.

64. On or about July 10, 2009, Clearon distributed or sold the distributor product with EPA Reg. No. 8622-29-69470 to Recipient B.

65. On or about July 23, 2009, Clearon distributed or sold the distributor product with EPA Reg. No. 8622-29-69470 to Recipient B.

66. On or about July 31, 2009, Clearon distributed or sold the distributor product with EPA Reg. No. 8622-29-69470 to Recipient G.

67. On or about August 11, 2009, Clearon distributed or sold the distributor product with EPA Reg. No. 8622-29-69470 to Recipient A.

68. On or about August 28, 2009, Clearon distributed or sold the distributor product with EPA Reg. No. 8622-29-69470 to Recipient H.

69. On or about August 31, 2009, Clearon distributed or sold the distributor product with EPA Reg. No. 8622-29-69470 to Recipient B.

70. On or about August 31, 2009, Clearon distributed or sold the distributor product with EPA Reg. No. 8622-29-69470 to Recipient B.

71. On or about August 31, 2009, Clearon distributed or sold the distributor product with EPA Reg. No. 8622-29-69470 to Recipient B.

72. On or about September 17, 2009, Clearon distributed or sold the distributor product with EPA Reg. No. 8622-29-69470 to Recipient G.

73. On or about October 6, 2009, Clearon distributed or sold the distributor product with EPA Reg. No. 8622-29-69470 to Recipient D.

74. On or about October 13, 2009, Clearon distributed or sold the distributor product with EPA Reg. No. 8622-29-69470 to Recipient H.

75. On or about October 19, 2009, Clearon distributed or sold the distributor product with EPA Reg. No. 8622-29-69470 to Recipient B.

76. On or about December 3, 2009, Clearon distributed or sold the distributor product with EPA Reg. No. 8622-29-69470 to Recipient A.

77. On or about December 3, 2009, Clearon distributed or sold the distributor product with EPA Reg. No. 8622-29-69470 to Recipient H.

78. On or about December 18, 2009, Clearon distributed or sold the distributor product with EPA Reg. No. 8622-29-69470 to Recipient B.

79. On or about January 26, 2010, Clearon distributed or sold the distributor product with EPA Reg. No. 8622-29-69470 to Recipient H.

80. On or about February 9, 2010, Clearon distributed or sold the distributor product with EPA Reg. No. 8622-29-69470 to Recipient A.

81. On or about March 4, 2010, Clearon distributed or sold the distributor product with EPA Reg. No. 8622-29-69470 to Recipient B.

82. On or about March 12, 2010, Clearon distributed or sold the distributor product with EPA Reg. No. 8622-29-69470 to Recipient H.

83. On or about April 9, 2010, Clearon distributed or sold the distributor product with EPA Reg. No. 8622-29-69470 to Recipient B.

84. On or about April 13, 2010, Clearon distributed or sold the distributor product with EPA Reg. No. 8622-29-69470 to Recipient H.

85. On or about April 13, 2010, Clearon distributed or sold the distributor product with

EPA Reg. No. 8622-29-69470 to Recipient D.

86. On or about April 23, 2010, Clearon distributed or sold the distributor product with EPA Reg. No. 8622-29-69470 to Recipient G.

87. On or about April 28, 2010, Clearon distributed or sold the distributor product with EPA Reg. No. 8622-29-69470 to Recipient A.

88. On or about April 30, 2010, Clearon distributed or sold the distributor product with EPA Reg. No. 8622-29-69470 to Recipient E.

89. On or about April 30, 2010, Clearon distributed or sold the distributor product with EPA Reg. No. 8622-29-69470 to Recipient I.

90. On or about May 10, 2010, Clearon distributed or sold the distributor product with EPA Reg. No. 8622-29-69470 to Recipient E.

91. On or about May 17, 2010, Clearon distributed or sold the distributor product with EPA Reg. No. 8622-29-69470 to Recipient E.

92. On or about May 21, 2010, Clearon distributed or sold the distributor product with EPA Reg. No. 8622-29-69470 to Recipient G.

93. On or about May 24, 2010, Clearon distributed or sold the distributor product with EPA Reg. No. 8622-29-69470 to Recipient B.

94. On or about May 25, 2010, Clearon distributed or sold the distributor product with EPA Reg. No. 8622-29-69470 to Recipient E.

95. On or about May 28, 2010, Clearon distributed or sold the distributor product with EPA Reg. No. 8622-29-69470 to Recipient I.

96. On or about June 3, 2010, Clearon distributed or sold the distributor product with EPA Reg. No. 8622-29-69470 to Recipient H.

97. On or about June 29, 2010, Clearon distributed or sold the distributor product with EPA Reg. No. 8622-29-69470 to Recipient B.

98. On or about July 7, 2010, Clearon distributed or sold the distributor product with EPA Reg. No. 8622-29-69470 to Recipient E.

99. The labels of the distributor product listed in paragraphs 41 through 98 of this CAFO, including but not limited to the "Directions for Use," did not match the EPA-accepted label for ICL's pesticide product, EPA Reg. No. 8622-29, dated May 31, 2006.

Magnabox, using
EPA Reg. No. 8622-29-69470

100. On or about January 6, 2009, 21st Century distributed or sold the product with EPA Reg. No. 8622-29-69470 to Moretz Laboratories, Inc.

101. On or about February 4, 2009, 21st Century distributed or sold the product with EPA Reg. No. 8622-29-69470 to Moretz Laboratories, Inc.

102. On or about April 29, 2009, 21st Century distributed or sold the product with EPA Reg. No. 8622-29-69470 to Global Water Technology, Inc.

103. On or about May 1, 2009, 21st Century distributed or sold the product with EPA Reg. No. 8622-29-69470 to Moretz Laboratories, Inc.

104. On or about May 26, 2009, 21st Century distributed or sold the product with EPA Reg. No. 8622-29-69470 to Bardon's Water Services.

105. On or about June 3, 2009, 21st Century distributed or sold the product with EPA Reg. No. 8622-29-69470 to J.V. Company, Inc.

106. On or about June 5, 2009, 21st Century distributed or sold the product with EPA Reg. No. 8622-29-69470 to Mile Hi Water Tec, Inc.

107. On or about June 5, 2009, 21st Century distributed or sold the product with EPA

Reg. No. 8622-29-69470 to Moretz Laboratories, Inc.

108. On or about June 17, 2009, 21st Century distributed or sold the product with EPA

Reg. No. 8622-29-69470 to Chem-Master, Inc.

109. On or about July 8, 2009, 21st Century distributed or sold the product with EPA

Reg. No. 8622-29-69470 to Moretz Laboratories, Inc.

110. On or about July 22, 2009, 21st Century distributed or sold the product with EPA

Reg. No. 8622-29-69470 to Craft Products Company, Inc.

111. On or about July 31, 2009, 21st Century distributed or sold the product with EPA

Reg. No. 8622-29-69470 to H-O-H Water Technology, Inc.

112. On or about August 10, 2009, 21st Century distributed or sold the product with EPA

Reg. No. 8622-29-69470 to Moretz Laboratories, Inc.

113. On or about October 12, 2009, 21st Century distributed or sold the product with

EPA Reg. No. 8622-29-69470 to Moretz Laboratories, Inc.

114. On or about January 5, 2010, 21st Century distributed or sold the product with EPA

Reg. No. 8622-29-69470 to Moretz Laboratories, Inc.

115. On or about March 10, 2010, 21st Century distributed or sold the product with EPA

Reg. No. 8622-29-69470 to Lawson Products, Inc.

116. On or about March 22, 2010, 21st Century distributed or sold the product with EPA

Reg. No. 8622-29-69470 to Bond Water Technologies, Inc.

117. On or about March 24, 2010, 21st Century distributed or sold the product with EPA

Reg. No. 8622-29-69470 to Moretz Laboratories, Inc.

118. On or about March 31, 2010, 21st Century distributed or sold the product with EPA

Reg. No. 8622-29-69470 to Craft Products Company, Inc.

119. On or about April 14, 2010, 21st Century distributed or sold the product with EPA Reg. No. 8622-29-69470 to H-O-H Water Technologies, Inc.

120. On or about April 23, 2010, 21st Century distributed or sold the product with EPA Reg. No. 8622-29-69470 to Moretz Laboratories, Inc.

121. On or about April 30, 2010, 21st Century distributed or sold the product with EPA Reg. No. 8622-29-69470 to Moretz Laboratories, Inc.

122. On or about May 24, 2010, 21st Century distributed or sold the product with EPA Reg. No. 8622-29-69470 to Global Water Technology, Inc.

123. On or about June 21, 2010, 21st Century distributed or sold the product with EPA Reg. No. 8622-29-69470 to Moretz Laboratories, Inc.

124. The product listed in paragraphs 101 through 124 of this CAFO, were not registered with the Administrator.

125. On June 24, 2010, EPA issued a Stop Sale, Use or Removal Order to Clearon Corp. and 21 Century related to the “Magnabox” pesticide product, identified on its label as EPA Reg. No. 8622-29-69470.

“Halogene G,” EPA Reg. No. 8622-29-69470
Claims Differ Violations
Section 12(a)(1)(B)

Count 1
Recipient A

126. Complainant incorporates by reference the allegations contained in paragraphs 1 through 99 of this CAFO.

127. Clearon’s distribution or sale to Recipient A on ten separate occasions between August 21, 2007 and April 28, 2010, of the distributor product, “Halogene G,” EPA Reg. No. 8622-29-69470, with claims that differed from claims made for it as part of the statement

required in connection with its registration under section 3 of FIFRA, constitutes unlawful acts under Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B).

128. Clearon and ICL are subject to the assessment of a civil penalty of up to \$7,500 for each of the ten unlawful acts under Section 14(a) of the FIFRA, 7 U.S.C. § 136l(a).

Count 2
Recipient B

129. Complainant incorporates by reference the allegations contained in paragraphs 1 through 99 of this CAFO.

130. Clearon's distribution or sale to Recipient B on 18 separate occasions between September 14, 2007 and June 29, 2010, of the distributor product, "Halogene G," EPA Reg. No. 8622-29-69470, with claims that differed from claims made for it as part of the statement required in connection with its registration under section 3 of FIFRA, constitutes unlawful acts under Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B).

131. Clearon and ICL are subject to the assessment of a civil penalty of up to \$7,500 for each of the 18 unlawful acts under Section 14(a) of the FIFRA, 7 U.S.C. § 136l(a).

Count 3
Recipient C

132. Complainant incorporates by reference the allegations contained in paragraphs 1 through 99 of this CAFO.

133. Clearon's distribution or sale to Recipient C on November 13, 2007, of the distributor product, "Halogene G," EPA Reg. No. 8622-29-69470, with claims that differed from claims made for it as part of the statement required in connection with its registration under section 3 of FIFRA, constitutes an unlawful act under Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B).

134. Clearon and ICL are subject to the assessment of a civil penalty of up to \$7,500 for the unlawful act under Section 14(a) of the FIFRA, 7 U.S.C. § 136l(a).

Count 4
Recipient D

135. Complainant incorporates by reference the allegations contained in paragraphs 1 through 99 of this CAFO.

136. Clearon's distribution or sale to Recipient D on nine separate occasions between November 29, 2007 and April 13, 2010, of the distributor product, "Halogene G," EPA Reg. No. 8622-29-69470, with claims that differed from claims made for it as part of the statement required in connection with its registration under section 3 of FIFRA, constitutes unlawful acts under Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B).

137. Clearon and ICL are subject to the assessment of a civil penalty of up to \$7,500 for each of the nine unlawful acts under Section 14(a) of the FIFRA, 7 U.S.C. § 136l(a).

Count 5
Recipient E

138. Complainant incorporates by reference the allegations contained in paragraphs 1 through 99 of this CAFO.

139. Clearon's distribution or sale to Recipient E on six separate occasions between January 10, 2008 and April 30, 2010, of the distributor product, "Halogene G," EPA Reg. No. 8622-29-69470, with claims that differed from claims made for it as part of the statement required in connection with its registration under section 3 of FIFRA, constitutes unlawful acts under Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B).

140. Clearon and ICL are subject to the assessment of a civil penalty of up to \$7,500 for each of the six unlawful acts under Section 14(a) of the FIFRA, 7 U.S.C. § 136l(a).

Count 6
Recipient F

141. Complainant incorporates by reference the allegations contained in paragraphs 1 through 99 of this CAFO.

142. Clearon's distribution or sale to Recipient F on January 8, 2009, of the distributor product, "Halogene G," EPA Reg. No. 8622-29-69470, with claims that differed from claims made for it as part of the statement required in connection with its registration under section 3 of FIFRA, constitutes an unlawful act under Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B).

143. Clearon and ICL are subject to the assessment of a civil penalty of up to \$7,500 for the unlawful act under Section 14(a) of the FIFRA, 7 U.S.C. § 136l(a).

Count 7
Recipient G

144. Complainant incorporates by reference the allegations contained in paragraphs 1 through 99 of this CAFO.

145. Clearon's distribution or sale to Recipient G on five separate occasions between July 10, 2009 and May 21, 2010, of the distributor product, "Halogene G," EPA Reg. No. 8622-29-69470, with claims that differed from claims made for it as part of the statement required in connection with its registration under section 3 of FIFRA, constitutes unlawful acts under Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B).

146. Clearon and ICL are subject to the assessment of a civil penalty of up to \$7,500 for each of the five unlawful acts under Section 14(a) of the FIFRA, 7 U.S.C. § 136l(a).

Count 8
Recipient H

147. Complainant incorporates by reference the allegations contained in paragraphs

1 through 99 of this CAFO.

148. Clearon's distribution or sale to Recipient H on seven separate occasions between August 28, 2009 and June 3, 2010, of the distributor product, "Halogene G," EPA Reg. No. 8622-29-69470, with claims that differed from claims made for it as part of the statement required in connection with its registration under section 3 of FIFRA, constitutes unlawful acts under Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B).

149. Clearon and ICL are subject to the assessment of a civil penalty of up to \$7,500 for each of the seven unlawful acts under Section 14(a) of the FIFRA, 7 U.S.C. § 136l(a).

Count 9
Recipient I

150. Complainant incorporates by reference the allegations contained in paragraphs 1 through 99 of this CAFO.

151. Clearon's distribution or sale to Recipient I on two separate occasions between April 30, 2010 and May 28, 2010, of the distributor product, "Halogene G," EPA Reg. No. 8622-29-69470, with claims that differed from claims made for it as part of the statement required in connection with its registration under section 3 of FIFRA, constitutes unlawful acts under Section 12(a)(1)(B) of FIFRA, 7 U.S.C. § 136j(a)(1)(B).

152. Clearon and ICL are subject to the assessment of a civil penalty of up to \$7,500 for each of the two unlawful acts under Section 14(a) of the FIFRA, 7 U.S.C. § 136l(a).

Magnabox
21st Century Sale of an Unregistered Pesticide
Section 12(a)(1)(A)

Count 10
Moretz Laboratories Inc.

153. Complainant incorporates by reference the allegations contained in paragraphs

1 through 39 and 100 through 125 of this CAFO.

154. 21st Century's distribution or sale of an unregistered pesticide to Moretz Laboratories, Inc. on 12 separate occasions between January 6, 2009 and June 21, 2010, with consent from Clearon and ICL, constitutes unlawful acts under Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

155. Clearon and ICL are subject to the assessment of a civil penalty of up to \$7,500 for each of the 12 unlawful acts under Section 14(a) of the FIFRA, 7 U.S.C. § 136l(a).

Count 11
Global Water Technology, Inc.

156. Complainant incorporates by reference the allegations contained in paragraphs 1 through 39 and 100 through 125 of this CAFO.

157. 21st Century's distribution or sale of an unregistered pesticide to Global Water Technology, Inc. on two separate occasions between April 29, 2009 and May 24, 2010, with consent from Clearon and ICL, constitutes unlawful acts under Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

158. Clearon and ICL are subject to the assessment of a civil penalty of up to \$7,500 for each of the two unlawful acts under Section 14(a) of the FIFRA, 7 U.S.C. § 136l(a).

Count 12
Bardon's Water Service

159. Complainant incorporates by reference the allegations contained in paragraphs 1 through 39 and 100 through 125 of this CAFO.

160. 21st Century's distribution or sale of an unregistered pesticide to Bardon's Water Service on May 26, 2009, with consent from Clearon and ICL, constitutes an unlawful act under Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

161. Clearon and ICL are subject to the assessment of a civil penalty of up to \$7,500 for the unlawful act under Section 14(a) of the FIFRA, 7 U.S.C. § 136l(a).

Count 13
J.V. Company, Inc.

162. Complainant incorporates by reference the allegations contained in paragraphs 1 through 39 and 100 through 125 of this CAFO.

163. 21st Century's distribution or sale of an unregistered pesticide to J.V. Company, Inc. on June 3, 2009, with consent from Clearon and ICL, constitutes an unlawful act under Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

164. Clearon and ICL are subject to the assessment of a civil penalty of up to \$7,500 for the unlawful act under Section 14(a) of the FIFRA, 7 U.S.C. § 136l(a).

Count 14
Mile High Water Tec, Inc.

165. Complainant incorporates by reference the allegations contained in paragraphs 1 through 39 and 100 through 125 of this CAFO.

166. 21st Century's distribution or sale of an unregistered pesticide to Mile High Water Tec, Inc. on June 5, 2009, with consent from Clearon and ICL, constitutes an unlawful act under Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

167. Clearon and ICL are subject to the assessment of a civil penalty of up to \$7,500 for the unlawful act under Section 14(a) of the FIFRA, 7 U.S.C. § 136l(a).

Count 15
Chem-Master, Inc.

168. Complainant incorporates by reference the allegations contained in paragraphs 1 through 39 and 100 through 125 of this CAFO.

169. 21st Century's distribution or sale of an unregistered pesticide to Chem-Master, Inc.

on June 17, 2009, with consent from Clearon and ICL, constitutes an unlawful act under Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

170. Clearon and ICL are subject to the assessment of a civil penalty of up to \$7,500 for the unlawful act under Section 14(a) of the FIFRA, 7 U.S.C. § 136l(a).

Count 16
Craft Products Company, Inc.

171. Complainant incorporates by reference the allegations contained in paragraphs 1 through 39 and 100 through 125 of this CAFO.

172. 21st Century's distribution or sale of an unregistered pesticide to Craft Products Company, Inc. on two separate occasions between July 22, 2009 and May 31, 2010, with consent from Clearon and ICL, constitutes unlawful acts under Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

173. Clearon and ICL are subject to the assessment of a civil penalty of up to \$7,500 for each of the two unlawful acts under Section 14(a) of the FIFRA, 7 U.S.C. § 136l(a).

Count 17
H-O-H Water Technology, Inc.

174. Complainant incorporates by reference the allegations contained in paragraphs 1 through 39 and 100 through 125 of this CAFO.

175. 21st Century's distribution or sale of an unregistered pesticide to H-O-H Water Technology, Inc. on two separate occasions between July 31, 2009 and April 14, 2010, with consent from Clearon and ICL, constitutes unlawful acts under Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

176. Clearon and ICL are subject to the assessment of a civil penalty of up to \$7,500 for each of the two unlawful acts under Section 14(a) of the FIFRA, 7 U.S.C. § 136l(a).

Count 18
Lawson Products, Inc.

177. Complainant incorporates by reference the allegations contained in paragraphs 1 through 39 and 100 through 125 of this CAFO.

178. 21st Century's distribution or sale of an unregistered pesticide to Lawson Products, Inc. on March 10, 2010, with consent from Clearon and ICL, constitutes an unlawful act under Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

179. Clearon and ICL are subject to the assessment of a civil penalty of up to \$7,500 for the unlawful act under Section 14(a) of the FIFRA, 7 U.S.C. § 136l(a).

Count 19
Bond Water Technologies, Inc.

180. Complainant incorporates by reference the allegations contained in paragraphs 1 through 39 and 100 through 125 of this CAFO.

181. 21st Century's distribution or sale of an unregistered pesticide to Bond Water Technologies, Inc. on March 22, 2010, with consent from Clearon and ICL, constitutes an unlawful act under Section 12(a)(1)(A) of FIFRA, 7 U.S.C. § 136j(a)(1)(A).

182. Clearon and ICL are subject to the assessment of a civil penalty of up to \$7,500 for the unlawful act under Section 14(a) of the FIFRA, 7 U.S.C. § 136l(a).

Civil Penalty

183. Pursuant to Section 14(a)(4) of FIFRA, 7 U.S.C. § 136l(a)(4), Complainant determined that an appropriate civil penalty to settle this action is \$465,400. In determining the penalty amount, Complainant considered the appropriateness of the penalty to the size of Respondents' businesses, the effect on Respondents' ability to continue in business, and the gravity of the violation. Complainant also considered EPA's *Enforcement Response Policy*

FIFRA (ERP), dated December 2009.

184. Within 30 days after the effective date of this CAFO, Respondents must pay a \$465,400 civil penalty for the FIFRA violations. Respondents must pay the penalty by sending a cashier's or certified check, payable to the "Treasurer, United States of America," to:

[for a check sent by regular U.S. Postal Service mail:]

U.S. EPA
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

[for a check sent by overnight mail:]

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101

185. The check must note the case title, the docket number of this CAFO and the billing document (BD) number.

186. A transmittal letter, stating, Respondents' name, the case title, Respondents' complete address, the case docket number and the BD number must accompany the payment.

Respondents must send a copy of the check and transmittal letter to:

Regional Hearing Clerk (E-19J)
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

Estrella Calvo (LC-8J)
Pesticides and Toxics Compliance Section
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

Susan Perdomo (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

187. This civil penalty is not deductible for federal tax purposes.

188. If Respondents do not pay the civil penalty timely, EPA may refer the matter to the Attorney General who will recover such amount by action in the appropriate United States district court under Section 14(a)(5) of FIFRA, 7 U.S.C. § 136l(a)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

189. Pursuant to 31 C.F.R. § 901.9, Respondents must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date payment was due at a rate established by the Secretary of the Treasury. Respondents must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondents must pay a 6 percent per year penalty on any principal amount 90 days past due.

190. This CAFO resolves Respondents' liability for federal civil penalties for the violations and facts alleged in the CAFO.

191. This CAFO does not affect the right of the EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

192. This CAFO does not affect Respondents' responsibility to comply with FIFRA and other applicable federal, state, and local laws.

193. This CAFO is a "final order" for purposes of EPA's ERP for FIFRA.

194. The terms of this CAFO bind Respondents, its successors, and assigns.

195. Each person signing this agreement certifies that he or she has the authority to sign

for the party whom he or she represents and to bind that party to its terms.

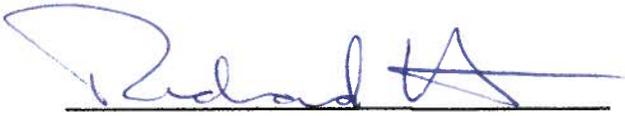
196. Each party agrees to bear its own costs and attorney's fees in this action.

197. This CAFO constitutes the entire agreement between the parties.

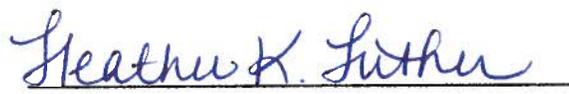
**In the Matter of:
ICL-IP America, Inc. and
Clearon Corp.**

ICL-IP America, Inc., Respondent

APRIL 7 2011
Date


Richard Hooper
President and CEO

April 7, 2011
Date


Heather K. Luther
Vice President, General Counsel and Secretary

**In the Matter of:
ICL-IP America, Inc. and
Clearon Corp.**

Clearon Corp., Respondent

APRIL 7 2011
Date


Richard Hooper
President and CEO

April 7, 2011
Date


Heather K. Luther
General Counsel and Secretary

**In the Matter of:
ICL-IP America, Inc. and
Clearon Corp., Respondents**

U.S. Environmental Protection Agency, Complainant

4-26-11
Date

Richard C. Karl
Richard C. Karl
Acting Director
Land and Chemicals Division

In the Matter of:
ICL-IP America, Inc. and
Clearon Corp.
Docket No. FIFRA-05-2011-0011

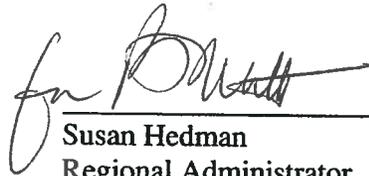
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Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

4/28/11

Date



Susan Hedman
Regional Administrator
U.S. Environmental Protection Agency
Region 5

CERTIFICATE OF SERVICE

I hereby certify that an original signed copy of the Consent Agreement and Final Order (CAFO) in resolution of the civil administrative action involving ICL-IP America, Inc. and Clearon Corp. was filed on May 2, 2011, with the Regional Hearing Clerk (E-19J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604, and that I mailed by Certified Mail, Receipt No. 7001 0320 0005 8933 0641, two original signed copies of the CAFO to Respondents' counsel:

Mr. Stanley H. Abramson
Partner
Arent Fox LLP | Attorneys at Law
1050 Connecticut Avenue, NW
Washington, D.C. 20036-5339

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USEPA
REGION 5

and forwarded copies (intra-Agency) to:

Marcy Toney, Regional Judicial Officer, ORC/C-14J
Susan Perdomo, Office of Regional Counsel, ORC/C-14J
Eric Volck, Cincinnati Finance/MWD


Frederick Brown
Chemicals Management Branch
U.S. EPA - Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Docket No. FIFRA-05-2011-0011