

G. HOLLMANN RESTREPO

ABOGA

SUPERINDUSTRIA Y COMERCIO

Indicacion : 03002520 00000002

Folios: 7

Fecha (UND): 2003-07-04 16:07:33

Tramite : 011 PCT-PATENT 379 FASE NNCI 329 COMPLEMEN

Dependencia: 2080 DIVISION DE NUEVAS CREACIONES

53924

SUPERINTENDENCIA DE INDUSTRIA Y COMERCIO

DIVISION DE NUEVAS CREACIONES

E. S. D.

0089

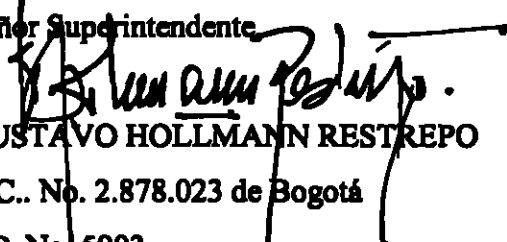
Re: Expediente No. 03 002520

Solicitud de patente PCT fase nacional

Titular: Bayer CropScience GmbH

Yo, GUSTAVO HOLLMANN RESTREPO, vecino de Bogotá D.C., portador de la tarjeta profesional No. 5903, obrando como apoderado en este negocio, digo a usted que acompaño al presente memorial, para que sea agregado al expediente de la referencia, copia del Examen Preliminar Internacional, con su correspondiente traducción al inglés (Formato PCT/IPA/409), correspondiente a la solicitud de patente internacional No. PCT/EP01/08125, el cual consta de 5 hojas incluyendo los anexos.

Señor Superintendente


GUSTAVO HOLLMANN RESTREPO

C.C.. No. 2.878.023 de Bogotá

T.P. No. 5903

Translation

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

US 90 2
90

Applicant's or agent's file reference 2000/M221	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/EP01/08125	International filing date (day/month/year) 13 July 2001 (13.07.01)	Priority date (day/month/year) 25 July 2000 (25.07.00)
International Patent Classification (IPC) or national classification and IPC A01N 37/36		
Applicant BAYER CROPSCIENCE GMBH		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36. 2. This REPORT consists of a total of <u>5</u> sheets, including this cover sheet. ☐ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT). These annexes consist of a total of _____ sheets.	
3. This report contains indications relating to the following items: I ☒ Basis of the report II ☐ Priority III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability IV ☐ Lack of unity of invention V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability: citations and explanations supporting such statement VI ☐ Certain documents cited VII ☐ Certain defects in the international application VIII ☐ Certain observations on the international application	

Date of submission of the demand 30 January 2002 (30.01.02)	Date of completion of this report 03 September 2002 (03.09.2002)
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/EP01/08125

0891 91

I. Basis of the report

1. With regard to the elements of the international application:*

- ☐ the international application as originally filed
- ☒ the description:
pages 1-33, as originally filed
pages _____, filed with the demand
pages _____, filed with the letter of _____
- ☒ the claims:
pages 1-8, as originally filed
pages _____, as amended (together with any statement under Article 19
pages _____, filed with the demand
pages _____, filed with the letter of _____
- ☐ the drawings:
pages _____, as originally filed
pages _____, filed with the demand
pages _____, filed with the letter of _____
- ☐ the sequence listing part of the description:
pages _____, as originally filed
pages _____, filed with the demand
pages _____, filed with the letter of _____

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language _____ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages _____
- ☐ the claims, Nos. _____
- ☐ the drawings, sheets/fig. _____

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).**

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rule 70.16 and 70.17).

** Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.
PCT/EP 01/08125

0092

92

I. Basis of the report

- I. This report has been drawn on the basis of *(Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 1-4 are referred to in this report as "originally filed" and are not annexed to the report since they do not contain amendments.)*:

The documents cited in this preliminary examination report are numbered in the same order as they appear in the international search report.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/EP 01/08125

0093

93

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims		YES
	Claims	1-8	NO
Inventive step (IS)	Claims		YES
	Claims	1-8	NO
Industrial applicability (IA)	Claims	1-8	YES
	Claims		NO

2. Citations and explanations

The present invention relates to a herbicidal agent containing a herbicidal sulfonyl amide or sulfonylurea, a silicone surfactant and a humectant, and production and use thereof.

D1 (Claim 1) describes herbicidal agents containing a herbicide, a silicone surfactant and a humectant. Moreover, D1 describes, for example, metasulfuron (page 9) as a suitable herbicide, this corresponding to a sulfonylurea. The same production method (*inter alia* page 16) is disclosed, and the same use. The applicant has referred, in this regard, to "The Pesticide Manual, 12th Ed., British Crop Protection Council" pages 644-645. Contrary to the applicant's views, in the paragraph "Uses" it is stated that metsulfuron "controls a wide range of annual and perennial broad-leaved weeds", i.e. this active ingredient is effective against grass.

D2 also describes subjects prejudicial to novelty. The surfactants used are *inter alia* those which are used according to the invention (page 4) as humectants and are mixed explicitly (Examples 15 to 17) with sulfonylurea herbicides and silicone surfactants. The fact that surfactants are not expressly described as humectants does

not change their structure, and their corresponding properties remain unaltered. However, if they are supposed to be different, it is not clear from the claims, in particular the claims lack the essential distinguishing features.

D3 describes formulations of herbicides which use mixtures of silicone surfactants and humectants (page 34). Suitable herbicides, e.g. sulfonylureas, are disclosed on pages 35 to 36. Even though D3 does not mention an increase in the activity as a result of this particular type of formulation, it mentions controlled release. Although the aim according to the invention clearly differs from D3, a person skilled in the art had a reason to produce agents according to the invention.

The contribution made to the prior art is not clearly shown as a whole. The present application does not meet the criteria stipulated in PCT Article 33(2) and (3) because the subject matter of Claims 1 to 8 is not novel in view of the prior art defined in the Regulations (PCT Rule 64.1- PCT Rule 64.3) and does not involve an inventive step (PCT Rule 65.1- PCT Rule 65.2).

The present application meets the criterion stipulated in PCT Article 33(4) because the subject matter of Claims 1 to 8 is considered industrially applicable.

A reference to other documents may be directly linked to the disclosure of the invention. If the facts of these documents referred to prove to be important to meet the requirements of PCT Article 5, these facts should be included in express terms in the description, since the application relating to the essential features can be understood without reference to other documents. In any

INTERNATI NAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/EP 01/08125

0095

95

case the wording "included by reference " should not
appear (page 5, two passages: line 5 and line 15).