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SUPERINTENDENCIA DE INDUSTRIA Y COMERCIO
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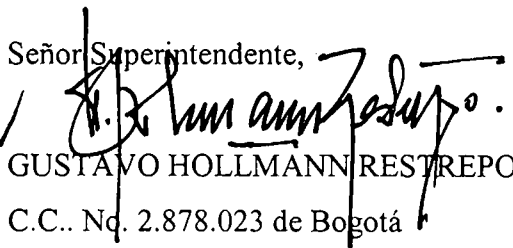
Re: Expediente No. 02 100729

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 agregada al expediente de la referencia, la Forma PCT/IPA/409 correspondiente al Examen Preliminar Internacional, con su correspondiente traducción al inglés, de la solicitud de patente internacional No. PCT/EP01/05099, el cual consta de 4 hojas incluyendo la portada.

Señor Superintendente,


GUSTAVO HOLLMANN RESTREPO

C.C.. Nq. 2.878.023 de Bogotá

T.P. No. 5903

Translation

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 2000/M211	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/EP01/05099	International filing date (day/month/year) 05 May 2001 (05.05.01)	Priority date (day/month/year) 11 May 2000 (11.05.00)
International Patent Classification (IPC) or national classification and IPC A01N 25/28, 43/76, 43/80, 43/56, 57/20, 47/36, A01N 43/76, 47/36, 43/56, 39/04, 43/90, 43/80, 43/76, 43/70, 43/56		
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>4</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 13 November 2001 (13.11.01)	Date of completion of this report 09 September 2002 (09.09.2002)
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/EP01/05099

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 1-11, 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.

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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	3 (in part)	YES
	Claims	1-11	NO
Inventive step (IS)	Claims		YES
	Claims	3 (insofar as novel)	NO
Industrial applicability (IA)	Claims	1-11	YES
	Claims		NO

2. Citations and explanations

1) Formulations containing an agrochemical active substance with a supporting material, preferably microcapsules composed of polyurethane and polyurea, surrounding one of said active substances and at least one additional active substance as well as at least another further constituent, as defined in Claims 8 and 9, are disclosed in documents EP-A2-0 619 073 (D1), EP-A1-0 498 332 (D2), WO-A1-90/08468 (D3), WO-A1-00/10392 (D4), EP-A1-0 084 253 (D5) and WO-A1-96/26719 (D6), as is evident from the passages cited in the international search report.

Hence, the subject matter of Claims 8-11 is not novel (PCT Article 33(2)).

2) It is likewise evident from documents D1 (page 2, lines 19-21 and page 2, line 54 - page 3, line 1), D2 (column 4, lines 36-40), D3 (page 1, line 37), D6 (page 4, lines 2-7 and page 27, lines 11-22) and DE-A1-27 57 017 (D7: page 4, paragraph 3) that it is known that such combinations can be used to suppress antagonistic interactions in a mixture.

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Hence, the subject matter of Claims 1-7 is likewise not novel (PCT Article 33(2)).

3) Insofar as Claim 3 specifically indicates certain agrochemical active substances that have not been disclosed in the prior art searched hitherto, said claim pertains to obvious alternatives to the known active substances.

Furthermore, it is not clear what technical problem has been solved by the present application that has not already been solved by the technical teaching of documents D1-D7.

Therefore, Claim 3, insofar as it is novel, does not involve an inventive step (PCT Article 33(3)).

4) Contrary to PCT Rule 5.1(a)(ii), the description does not cite documents D1-D6 or indicate the relevant prior art disclosed therein.