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SUPERINTENDENCIA DE INDUSTRIA Y COMERCIO
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INSTR. 11 PATENTABILIDAD
-LIVRO 3/01 FASE NACIONAL
FOLIO 444 RESPUESTA REQUERIMIENTO

Trámite : 011

Evento : 379

Actuación: 444

Referencia : Expediente No. 08101311
Asunto : Solicitud de patente para SULFOXIMINAS N-
SUSTITUIDAS INSECTICIDAS
Solicitante : DOW AGROSCIENCES LLC

CONTESTACION OFICIO No. 13901

1. Yo, Emilio FERRERO, en mi condición de apoderado de la sociedad solicitante, DOW AGROSCIENCES LLC, doy contestación al requerimiento efectuado por este Despacho mediante Oficio No. 13901 notificado por fijación en lista el 1 de diciembre de 2006, para lo cual presento el siguiente documento:

➤ Copia del Examen Preliminar Internacional de Patentabilidad de la invención solicitada en este asunto, el cual no contiene anexos toda vez que las reivindicaciones no fueron modificadas en el trámite de la fase internacional.

2. De acuerdo con lo anterior, comedidamente solicito a Usted proseguir con el trámite de este asunto y ordenar la publicación de la solicitud de la patente identificada en la referencia.

Señora Jefe,



EMILIO FERRERO
T.P.A. No. 31.929

COLO 10975 841 012 9
SCT/SCT/
ID-000223/WPMEOLE
Cns M-2007-00001111

NIT 880.041.367-3

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

53

Applicant's or agent's file reference 83,275A		FOR FURTHER ACTION		See Form PCT/PEA416
International application No. PCT/US2005/011852		International filing date (day/month/year) 08.04.2005		Priority date (day/month/year) 08.04.2004
International Patent Classification (IPC) or national classification and IPC INV. C07D211.00 C07D213.61				
Applicant DOW AGROSCIENCES LLC et al.				
1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36. 2. This REPORT consists of a total of 5 sheets, including this cover sheet. 3. This report is also accompanied by ANNEXES, comprising: a. ☐ sent to the applicant and to the International Bureau) a total of sheets, as follows: ☐ sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 807 of the Administrative Instructions). ☐ sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box. b. ☐ (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in electronic form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).				
4. This report contains indications relating to the following items: ☒ Box No. I Basis of the report ☐ Box No. II Priority ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability ☐ Box No. IV Lack of unity of invention ☒ Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement ☐ Box No. VI Certain documents cited ☐ Box No. VII Certain defects in the international application ☐ Box No. VIII Certain observations on the international application				
Date of submission of the demand 01.03.2008		Date of completion of this report 28.10.2006		
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465		Authorized officer van Laren, Martijn Telephone No. +49 89 2399- 		

**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No:
PCT/US2005/011852

154

Box No. 1 Basis of the report

1. With regard to the language, this report is based on

- ☒ the international application in the language in which it was filed
- ☐ a translation of the international application into , which is the language of a translation furnished for the purposes of:
 - ☐ international search (under Rules 12.3(a) and 23.1(b))
 - ☐ publication of the international application (under Rule 12.4(a))
 - ☐ international preliminary examination (under Rules 55.2(a) and/or 55.3(a))

2. With regard to the elements* of the international application, this report is based on *(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)*.

Description, Pages

1-60 as originally filed

Claims, Numbers

1-8 as originally filed

- ☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing

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

- ☐ the description, pages
- ☐ the claims, Nos.
- ☐ the drawings, sheets/figs
- ☐ the sequence listing *(specify)*:
- ☐ any table(s) related to sequence listing *(specify)*:

4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below 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)).

- ☐ the description, pages
- ☐ the claims, Nos.
- ☐ the drawings, sheets/figs
- ☐ the sequence listing *(specify)*:
- ☐ any table(s) related to sequence listing *(specify)*:

* If item 4 applies, some or all of these sheets may be marked "superseded."

**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/US2005/011852

Box No. 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)	Yes: Claims	1-8
	No: Claims	-
Inventive step (IS)	Yes: Claims	3,4,6
	No: Claims	1,2,5,7,8
Industrial applicability (IA)	Yes: Claims	1-8
	No: Claims	-

2. Citations and explanations (Rule 70.7):

see separate sheet

160

Re Item V

**Reasoned statement with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement**

1. Reference is made to the following document:

D1: GB-A-1 307 271 (SHELL INTERNATIONALE RESEARCH MAATSCHAPPIJ
NV) 14 February 1973 (1973-02-14)

2. Novelty.

The subject-matter of the present application is not disclosed in the prior art and therefore novel (Article 33(2) PCT).

3. Inventive step.

3.1. The solution proposed in claim 1 of the present application cannot be considered as involving an inventive step (Article 33(3) PCT) for the following reasons.

3.1.1. The subject-matter of claim 1 of the present application overlaps with the subject-matter of claim 1 of D1 when in formula(I) of claim 1 of the present application R¹, S and L taken together represent a 5- or 6-membered ring with one sulfur atom, this ring being saturated and unsubstituted on the carbon atoms and where n is 0 and Y is hydrogen. This then overlaps with the subject-matter of claim 1 of D1 when R₁ and R₂ together represent a polymethylene group and R₃ represents a nitro or acyl group.

3.1.2. Such a selection can only be regarded as inventive, if the selection presents unexpected effects or properties in relation to the rest of the range. However, no such effects or properties are indicated in the application. Hence, no inventive step is present in the subject-matter of claim 1.

3.2. Moreover, D1 discloses a tetrahydro thiophene sulfoximine compound where X is COOR⁴ and R⁴ is benzyl.

3.2.1. The subject-matter of claim 1 therefore differs from this known in D1 in that: R⁴ is C₁-C₃ alkyl.

3.2.2. In the absence of any special technical effect of the compounds of the present application, the problem to be solved by the present invention is: the provision of further compounds useful as insecticides.

3.2.3. The solution proposed in claim 1 of the present application cannot be considered as involving an inventive step (Article 33(3) PCT) for the following reasons.

The person skilled in the art, would, when confronted with the problem as posed above and starting from D1, consider a C₁₋₃ alkyl ester instead of a benzyl ester to arrive at the subject-matter of claim 1 of the present application.

3.3. The same reasoning as in both 3.1. and 3.2. applies, mutatis mutandis, to the subject-matter of the corresponding independent claims 7 and 8 and dependent claims 2 and 5, which therefore are also considered not inventive.

3.4. The combination of the features of dependent claims 3,4 and 6 is neither known from, nor rendered obvious by, the available prior art.