

CAVELIER

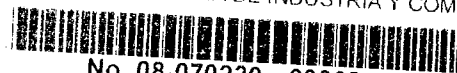
ABOGADOS

www.cavelier.com
cavelier@cavelier.com

EDIFICIO SISKI
CARRERA 4 No. 72 - 35
BOGOTA 8, COLOMBIA

Teléfono: (57-1) 347 3611
Telefax: (57-1) 211 8650

SUPERINTENDENCIA DE INDUSTRIA Y COMERCIO



No. 08-070230- -00002-0000

fecha 2008-10-28 11:08:08 Dep 2020 NULCRLACIONE
tra 11 PATENTILYII Lve 379 FASENACIONALII
Act 444 RLSPUESTARLQUL Folios 6

Señora Jefe de la
DIVISION DE NUEVAS CREACIONES
Superintendencia de Industria y Comercio
E. S. D.

Trámite : 011 Evento : 379 Actuación : 444

Referencia : Expediente No. 08070230
Asunto : Solicitud de patente para 6-(ARILO POLI
SUSTITUIDO)-4 AMINOPICOLINATOS Y SU USO COMO
HERBICIDAS
Solicitante : DOW AGROSCIENCES LLC

CONTESTACION OFICIO No. 10870

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. 10870 notificado por fijación en lista el 29 de agosto de 2008, para lo cual presento el siguiente documento:

1.1. Copia de Reporte de Examen Preliminar Internacional, el cual no contiene anexos toda vez que las reivindicaciones no se modificaron en 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-10975-841-019-4
SCT\SCT\ID-137178\WPC10975
No. M-2008-137178\SCT

205

PATENT COOPERATION TREATY
PCT
INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
(Chapter II of the Patent Cooperation Treaty)
(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 64596A WO	FOR FURTHER ACTION	See Form PCT/PEAA16
International application No. PCT/US2007/000994	International filing date (day/month/year) 12.01.2007	Priority date (day/month/year) 13.01.2006
International Patent Classification (IPC) or national classification and IPC INV. C07D213/79		
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 <u>5</u> 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 607 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 2007-10-18	Date of completion of this report 10.04.2008	
Name and mailing address of the international preliminary examining authority:  European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016	Authorized officer Bosma, Peter Telephone No. +31 70 340-3665	



**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/US2007/000994

Box No. I 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

1-100 as originally filed

Claims, Numbers

1-21 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*):

5. ☐ This opinion has been established taking into account the **rectification of an obvious mistake** authorized by or notified to this Authority under Rule 91 (Rule 70.2 (e)).

**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/US2007/000994

Box No. II Priority

1. ☒ This report has been established as if no priority had been claimed due to the failure to furnish within the prescribed time limit the requested:
 - ☒ copy of the earlier application whose priority has been claimed (Rule 66.7(a)).
 - ☐ translation of the earlier application whose priority has been claimed (Rule 66.7(b)).
2. ☐ This report has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rule 64.1). Thus for the purposes of this report, the international filing date indicated above is considered to be the relevant date.
3. Additional observations, if necessary:

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	<u>1-17,20,21</u>
	No: Claims	<u>18,19</u>
Inventive step (IS)	Yes: Claims	<u>1-17,20,21</u>
	No: Claims	<u>18,19</u>
Industrial applicability (IA)	Yes: Claims	<u>1-21</u>
	No: Claims	

2. Citations and explanations (Rule 70.7):

see separate sheet

Box No. VI Certain documents cited

1. Certain published documents (Rule 70.10)

and / or

2. Non-written disclosures (Rule 70.9)

see separate sheet

**INTERNATIONAL PRELIMINARY
REPORT ON PATENTABILITY
(SEPARATE SHEET)**

International application No.

PCT/US2007/000994

Re Item V.

1 Reference is made to the following documents:

- D1: WO 03/011853 A1 (DOW AGROSCIENCES LLC [US]) 13 February 2003 cited in the application
D2: US-A-5 087 764 (REIFFENRATH VOLKER [DE] ET AL) 11 February 1992
D3: BOLTON R ET AL: "NUCLEOPHILIC DISPLACEMENT IN POLYHALOGENOAROMATIC COMPOUNDS. PART 11. KINETICS OF PROTIODEIODINATION OF IODOARENES IN DIMETHYL SULPHOXIDE-METHANOL" JOURNAL OF THE CHEMICAL SOCIETY, SECTION B: PHYSICAL ORGANIC CHEMISTRY, CHEMICAL SOCIETY, LETCHWORTH, GB, 1982, pages 1593-1598, XP009070584
D4: MONGIN F ET AL: "Extensive Halogen Scrambling and Buttreasing Effects Encountered upon Treatment of Oligobromoarenes with Bases" EUROPEAN JOURNAL OF ORGANIC CHEMISTRY, WILEY-VCH VERLAG, WEINHEIM, DE, no. 14, 2001, pages 2771-2777, XP003003790 ISSN: 1434-193X
D5: G.C. FINGER ET AL.: "A synthesis of 1,2,3,4-tetrafluorobenzene by KF fluorination" JOURNAL OF FLUORINE CHEMISTRY, vol. 4, 1974, pages 111-113, XP002446892 Lausanne, CH

2 The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claims 18 and 19 is not new in the sense of Article 33(2) PCT: Documents D2-D5 already disclose several compounds covered by the definitions of present claims 18 and 19.

It is noted that many more novelty destroying documents could have been cited in the International Search Report.

The initial phase of the search revealed a very large number of documents relevant to the issue of novelty. So many documents were retrieved that it is impossible to determine which parts of the mentioned claims may be said to define subject-matter for which protection might legitimately be sought (Article 6 PCT).

3 Document D1, which is considered to represent the most relevant state of the art, discloses 6-(poly-substituted aryl)-4-aminopicolinates and their use as herbicides. The present application is considered to be new for claims 1-17, 20, 21, which subject matter differs from the disclosure of D1 by the definitions provided for the moiety Ar. The phenyl group is substituted in a specific positions by at least 3 substituents. D1 describes several examples (see e.g. compound 192) for which the substitution patters are different.

D1 claims in general the present subject matter, however does not disclose exactly any example in which said substituents are bonded to the phenyl group as defined in the present independent claim 1.

The above indicated compounds of the present claims 1-17, are regarded as a (novel)

**INTERNATIONAL PRELIMINARY
REPORT ON PATENTABILITY
(SEPARATE SHEET)**

International application No.

PCT/US2007/000994

selection from the compounds disclosed by D1.

Such a selection is considered a priori to be a further development of the teaching of D1, at which the man skilled in the art would arrive, without the exercise of inventive skill.

The problem to be solved by the present invention over D1 is to provide further compounds, having **improved herbicidal activity**.

This problem has been solved by the present compounds:

In order to prove an inventive step the applicant has demonstrated by comparative tests, as described in an Affidavit filed with letter of September 27, 2007, that the compounds in question demonstrate either enhanced selectivity or enhanced efficacy lacking in the closest examples disclosed in D1, by comparison of many relevant D1 examples (e.g. 195, 169, 73, 79, 44) with the closest possible structures of the present application, i.e. examples 105, 93, 46, 43, 57.

Since the subject matter of the final products (claims 1-17) is both novel and inventive, claims 20,21 to the intermediates likewise involve an inventive step as they contribute to the differentiating feature over the closest prior art.

The present application consequently satisfies the criterion set forth in Article 33(3) PCT, because the subject-matter of claims 1-17, 20,21 is considered to be not obvious and to involve an inventive step in respect of Rule 65(1)(2) PCT.

4 The application does not meet the requirements of Article 6 PCT, because claim 19 is not clear:

Several compounds are claimed which are phenol derivatives. However such compounds are not part of independent claim 18, because in all definitions the phenyl group (Ar) is not substituted by a hydroxy group.

Re Item VI.

5 The following document has been considered for the purposes of this report:
D6: WO 2007/082098 A2 (DOW AGROSCIENCES LLC, USA) 19 July 2007

D6 has been cited in the international search report as an E-document.

D6 contains subject-matter which could be of interest for the novelty of the present claims 1-21 (Rule 64.1, 64.3, 70.10 PCT).



2020
Bogotá D.C.,

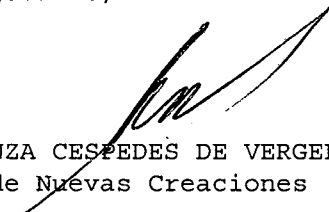
Doctor(a)
FERRERO EMILIO
Apoderado(a) y/o Representante de
DOW AGROSCIENCES LLC

REFERENCIA	Radicación No.	8 70230
	Solicitud internacional	PCT/US2007/000994
	Fecha inicio fase nacional	13/08/2008
	Trámite	11
	Evento	379
	Actuación	416
	Oficio No.	9192
	Folios	1

Teniendo en cuenta que la solicitud de privilegio de patente que se tramita bajo el expediente indicado en la referencia, reúne los requisitos de forma establecidos en la Decisión 486 de la Comisión de la Comunidad Andina, el Tratado de Cooperación en Materia de Patentes (PCT), el Reglamento y la Circular Única de la Superintendencia de Industria y Comercio, se envía el extracto de la solicitud a la Oficina de Comunicaciones para efecto de su publicación en la Gaceta de Propiedad Industrial.

Cúmplase
Dado en Bogotá DC,

11 NOV. 2008


ALIX CARMENZA CESPEDÉS DE VERGEL
Directora de Nuevas Creaciones (c)

adpall