

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:
see form PCT/ISA/220

PCT

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION
See paragraph 2 below

International application No. PCT/EP2015/057088	International filing date (day/month/year) 31.03.2015	Priority date (day/month/year) 11.04.2014
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International Patent Classification (IPC) or both national classification and IPC
INV. C07D213/74 A01N43/40

Applicant
SYNGENTA PARTICIPATIONS AG

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ 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 Rule 43bis.1(a)(i) with regard to novelty, inventive step and 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

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

Name and mailing address of the ISA:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Fax: +49 89 2399 - 4465	Date of completion of this opinion see form PCT/ISA/210	Authorized Officer Telephone No. +49 89 2399-0	
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Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of:
 - ☒ 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 (Rules 12.3(a) and 23.1 (b)).
2. ☐ 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 43bis.1(a))
3. ☐ With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, this opinion has been established on the basis of a sequence listing:
 - a. ☐ forming part of the international application as filed:
 - ☐ in the form of an Annex C/ST.25 text file.
 - ☐ on paper or in the form of an image file.
 - b. ☐ furnished together with the international application under PCT Rule 13ter.1(a) for the purposes of international search only in the form of an Annex C/ST.25 text file.
 - c. ☐ furnished subsequent to the international filing date for the purposes of international search only:
 - ☐ in the form of an Annex C/ST.25 text file (Rule 13ter.1(a)).
 - ☐ on paper or in the form of an image file (Rule 13ter.1(b) and Administrative Instructions, Section 713).
4. ☐ In addition, in the case that more than one version or copy of a sequence listing has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that forming part of the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
5. Additional comments:

Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	<u>1-12</u>
	No: Claims	
Inventive step (IS)	Yes: Claims	
	No: Claims	<u>1-12</u>
Industrial applicability (IA)	Yes: Claims	<u>1-12</u>
	No: Claims	

2. Citations and explanations

see separate sheet

Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

see separate sheet

Re Item V

Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

The following documents have been cited in the International Search Report:

- D1 WO 2012/146125 A1 (SYNGENTA PARTICIPATIONS AG [CH]) 1 November 2012 (2012-11-01), cited in the application
- D2 WO 2008/101682 A2 (SYNGENTA PARTICIPATIONS AG [CH]; SYNGENTA LTD [GB]) 28 August 2008 (2008-08-28), cited in the application

Novelty (Article 33(2) PCT)

The present compounds differ from the structurally closest exemplary compounds in D1 e.g. in R6 (D1: e.g. page 400, e.g. compound Q.429) and from the structurally closest prophetic compounds in D1 e.g. in R2 (D1: e.g. page 317, e.g. compound T3.1355).

The present compounds differ from the structurally closest exemplary compounds in D2 in the group R2-O-CH₂-CH(R6)- (D2: e.g. page 101, e.g. compound P.28) and from the structurally closest prophetic compounds in D1 in e.g. R2 or e.g. R6 (D2: e.g. page 186, e.g. compounds T5.1351 or T5.1355).

The claimed matter is novel.

Inventive Step (Article 33(3) PCT)

D1 and D2 disclose fungicidal N'-[2-methyl-6-[2-alkoxy-ethoxy]-3-pyridyl]-N-alkyl-formamidine derivatives for use in agriculture. D1 could be regarded as the closest prior art.

The problem of the invention was the provision of new compounds with fungicidal activity for use in agriculture.

The present compounds are new examples within the general teaching of D1 or D2.

They differ from the structurally closest exemplary compound in D1 the substituent R6, i.e. the substituent in 1-position of the bridging ethoxyl group of R2-O-CH₂-CH(R6)-O-.

The 1-substitution of the ethoxyl group is suggested in D1 e.g. by the prophetic compound T3.1355 or more generally e.g. by the moiety of the line A.1.355 on page 307 of D1.

In view of D1 it was an obvious measure for a skilled person to provide the present compounds.

The claimed matter lacks an inventive step.

Re Item VII

Certain defects in the international application

Description

The description contains irrelevant expressions, like e.g.:

- *"The following non-limiting Examples illustrate the above-described invention in greater detail without limiting it. Those skilled in the art will promptly recognise appropriate variations from the procedures both as to reactants and as to reaction conditions and techniques. All references mentioned herein are incorporated by reference in their entirety."* (page 26, lines 5 to 9)

With entry into the regional phase before the EPO:

- When filing amended claims the description has to be brought in line with the amended claim set at the same time.
- If some examples are then not encompassed any more, they must be deleted or identified as reference compounds.
- Those parts of the application which then do not refer any more to the claimed invention must be deleted.
- The relevant prior art cited in the search reports and in EPO's communications must be cited in the description.
- Those parts of the application containing irrelevant or unnecessary expressions must be deleted.
- A hand-amended version wherein the amendments are visible as well as a readable, re-typed version as the print version must be filed at the same time, in order to avoid print errors (it is noted that hand-amended pages are no longer allowed as the print version).
- The basis for the amendments in the application as originally filed must be indicated.