

PATENT COOPERATION TREATY

From the INTERNATIONAL SEARCHING AUTHORITY

PCT

To:

De Clercq & Partners
Edgard Gevaertdreef 10a
9830 Sint-Martens-Latem
BELGIQUE

NOTIFICATION OF TRANSMITTAL OF
THE INTERNATIONAL SEARCH REPORT AND
THE WRITTEN OPINION OF THE INTERNATIONAL
SEARCHING AUTHORITY, OR THE DECLARATION

(PCT Rule 44.1)

Date of mailing (day/month/year)		20 July 2022 (20-07-2022)
Applicant's or agent's file reference BIPA-008-PCT	FOR FURTHER ACTION See paragraphs 1 and 4 below	
International application No. PCT/EP2022/057720	International filing date (day/month/year) 24 March 2022 (24-03-2022)	
Applicant BIPA NV		

1. ☒ The applicant is hereby notified that the international search report and the written opinion of the International Searching Authority have been established and are transmitted herewith.

Filing of amendments and statement under Article 19:

The applicant is entitled, if he so wishes, to amend the claims of the international application (see Rule 46):

When? The time limit for filing such amendments is normally two months from the date of transmittal of the international search report.

How? Directly to the International Bureau preferably through ePCT, or on paper to:
The International Bureau of WIPO, 34 chemin des Colombettes, 1211 Geneva 20, Switzerland

For more detailed instructions, see the *PCT Applicant's Guide*, International Phase, paragraphs 9.004 - 9.011.

2. ☐ The applicant is hereby notified that no international search report will be established and that the declaration under Article 17(2)(a) to that effect and the written opinion of the International Searching Authority are transmitted herewith.

3. ☐ **With regard to any protest** against payment of (an) additional fee(s) under Rule 40.2, the applicant is notified that:

☐ the protest together with the decision thereon has been transmitted to the International Bureau together with any request to forward the texts of both the protest and the decision thereon to the designated Offices.

☐ no decision has been made yet on the protest; the applicant will be notified as soon as a decision is made.

4. **Reminders**

The applicant may **submit comments on an informal basis on the written opinion of the International Searching Authority** to the International Bureau. These comments will be made available to the public after international publication. The International Bureau will send a copy of such comments to all designated Offices unless an international preliminary examination report has been or is to be established.

Shortly after the expiration of **18 months from the priority date**, the international application will be published by the International Bureau. If the applicant wishes to avoid or postpone publication, a notice of withdrawal of the international application, or of the priority claim, must reach the International Bureau before the completion of the technical preparations for international publication (Rules 90bis.1 and 90bis.3).

Within **19 months** from the priority date, but only in respect of some designated Offices, a demand for international preliminary examination must be filed if the applicant wishes to postpone the entry into the national phase **until 30 months** from the priority date (in some Offices even later); otherwise, the applicant must, **within 20 months** from the priority date, perform the prescribed acts for **entry into the national phase** before those designated Offices. In respect of other designated Offices, the time limit of **30 months** (or later) will apply even if no demand is filed within 19 months. For details about the applicable time limits, Office by Office, see www.wipo.int/pct/en/texts/time_limits.html and the *PCT Applicant's Guide*, National Chapters.

Within **22 months from the priority date**, the applicant may request that a **supplementary international search be carried out** by a different International Searching Authority that offers this service (Rule 45bis.1). The procedure for requesting supplementary international search is described in the *PCT Applicant's Guide*, International Phase, paragraphs 8.006-8.032.

Name and mailing address of the International Searching Authority  European Patent Office, P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk Tel. (+31-70) 340-2040 Fax: (+31-70) 340-3016	Authorized officer BENITEZ SIERRA, Olga Maria Tel: +49 (0)89 2399-5715
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PATENT COOPERATION TREATY

PCT

INTERNATIONAL SEARCH REPORT

(PCT Article 18 and Rules 43 and 44)

Applicant's or agent's file reference BIPA-008-PCT	FOR FURTHER ACTION see Form PCT/ISA/220 as well as, where applicable, item 5 below.	
International application No. PCT/EP2022/057720	International filing date (<i>day/month/year</i>) 24 March 2022 (24-03-2022)	(Earliest) Priority Date (<i>day/month/year</i>) 25 March 2021 (25-03-2021)
Applicant BIPA NV		

This international search report has been prepared by this International Searching Authority and is transmitted to the applicant according to Article 18. A copy is being transmitted to the International Bureau.

This international search report consists of a total of 4 sheets.

☒ It is also accompanied by a copy of each prior art document cited in this report.

1. Basis of the report

a. With regard to the **language**, the international search was carried out 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))

b. ☐ This international search report has been established taking into account the **rectification of an obvious mistake** authorized by or notified to this Authority under Rule 91 (Rule 43.6bis(a)).

c. ☐ With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, see Box No. I.

2. ☐ **Certain claims were found unsearchable** (See Box No. II)

3. ☐ **Unity of invention is lacking** (see Box No III)

4. With regard to the **title**,

- ☒ the text is approved as submitted by the applicant
☐ the text has been established by this Authority to read as follows:

5. With regard to the **abstract**,

- ☒ the text is approved as submitted by the applicant
☐ the text has been established, according to Rule 38.2, by this Authority as it appears in Box No. IV. The applicant may, within one month from the date of mailing of this international search report, submit comments to this Authority

6. With regard to the **drawings**,

- a. the figure of the **drawings** to be published with the abstract is Figure No. _____
☐ as suggested by the applicant
☐ as selected by this Authority, because the applicant failed to suggest a figure
☐ as selected by this Authority, because this figure better characterizes the invention
- b. ☐ none of the figures is to be published with the abstract

International application No
PCT/EP2022/057720

A. CLASSIFICATION OF SUBJECT MATTER INV. A01N37/02 A01N33/12 A01P3/00 A01P13/00 ADD .		
According to International Patent Classification (IPC) or to both national classification and IPC		
B. FIELDS SEARCHED		
Minimum documentation searched (classification system followed by classification symbols) A01N A01P		
Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched		
Electronic data base consulted during the international search (name of data base and, where practicable, search terms used) EPO-Internal, WPI Data		
C. DOCUMENTS CONSIDERED TO BE RELEVANT		
Category*	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	WO 2020/104645 A1 (BIPA NV [BE])	1-30
	28 May 2020 (2020-05-28)	
	cited in the application	
Y	claims 1-9	1-30
	page 14, line 33 - page 15, line 5	
	page 14, lines 7, 9, 23, 28, 33	

Y	WO 03/059063 A1 (SUMMERDALE INC [US];	1-30
	COLEMAN ROBERT D [US])	
	24 July 2003 (2003-07-24)	
	pages 23-24; examples 16, 17	
	claim 5	

	-/--	
☒ Further documents are listed in the continuation of Box C. ☒ See patent family annex.		
* Special categories of cited documents :		
"A" document defining the general state of the art which is not considered to be of particular relevance "E" earlier application or patent but published on or after the international filing date "L" document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified) "O" document referring to an oral disclosure, use, exhibition or other means "P" document published prior to the international filing date but later than the priority date claimed		"T" later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention "X" document of particular relevance;; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone "Y" document of particular relevance;; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art "&" document member of the same patent family
Date of the actual completion of the international search 11 July 2022		Date of mailing of the international search report 20/07/2022
Name and mailing address of the ISA/ European Patent Office, P.B. 5818 Patentlaan 2 NL - 2280 HV Rijswijk Tel. (+31-70) 340-2040, Fax: (+31-70) 340-3016		Authorized officer Davies, Maxwell

INTERNATIONAL SEARCH REPORT

International application No

PCT/EP2022/057720

C(Continuation). DOCUMENTS CONSIDERED TO BE RELEVANT		
Category*	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
A	MARIJA PETKOVIC ET AL: "Novel biocompatible cholinium-based ionic liquids-toxicity and biodegradability", GREEN CHEMISTRY, vol. 12, no. 4, 1 January 2010 (2010-01-01), page 643, XP055545694, GB ISSN: 1463-9262, DOI: 10.1039/b922247b abstract -----	1-30

INTERNATIONAL SEARCH REPORT

Information on patent family members

International application No

PCT/EP2022/057720

Patent document cited in search report	Publication date	Patent family member(s)	Publication date
WO 2020104645 A1	28-05-2020	AU 2019385698 A1	27-05-2021
		BE 1026309 B1	18-12-2019
		BE 1026779 A1	08-06-2020
		BR 112021009991 A2	17-08-2021
		CA 3118179 A1	28-05-2020
		CN 113163761 A	23-07-2021
		EP 3883382 A1	29-09-2021
		JP 2022510614 A	27-01-2022
		MA 55125 A	02-03-2022
		PH 12021551146 A1	25-10-2021
		US 2022030859 A1	03-02-2022
		WO 2020104645 A1	28-05-2020
WO 03059063 A1	24-07-2003	AU 2003202265 A1	30-07-2003
		US 2004266852 A1	30-12-2004
		WO 03059063 A1	24-07-2003

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

PCT

To:

see form PCT/ISA/220

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/EP2022/057720

International filing date (day/month/year)
24.03.2022

Priority date (day/month/year)
25.03.2021

International Patent Classification (IPC) or both national classification and IPC
INV. A01N37/02 A01N33/12 A01P3/00 A01P13/00

Applicant
BIPA NV

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

Davies, Maxwell

Telephone No. +49 89 2399-0



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:

see separate sheet

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>2, 9-13, 17, 24-28</u>
	No: Claims	<u>1, 3-8, 14-16, 18-23, 29, 30</u>
Inventive step (IS)	Yes: Claims	
	No: Claims	<u>1-30</u>
Industrial applicability (IA)	Yes: Claims	<u>1-30</u>
	No: Claims	

2. Citations and explanations

see separate sheet

Item I

The application concerns a method for increasing the yield of rice by applying choline pelargonate or a composition thereof (claims 1-14) and related use (claim 15); a related method for preventing or controlling blast disease, sheath blight, or both by the application of choline pelargonate (claims 16-29) and related use (claim 30).

Item V

Reference is made to the following documents:

- D1 WO 2020/104645 A1 (BIPA NV [BE]) 28 May 2020 (2020-05-28) cited in the application
- D2 WO 03/059063 A1 (SUMMERDALE INC [US]; COLEMAN ROBERT D [US]) 24 July 2003 (2003-07-24)

Novelty (Art. 33(2) PCT)

Document D1, which was cited by the applicant, discloses the use of a composition comprising a choline salt of a C8-C10 fatty acid as a fungicide on a plant or plant part (D1, claim 1). The preferred embodiment is choline pelargonate (D1, claim 9). The composition is an aqueous composition (D1, claim 2; c.f. claims 3 and 18 of the current application) and can be formulated as a sprayable liquid or concentrate (D1, claim 3; c.f. claims 4 and 19 of the current application). The composition comprises between up to 70% w/v of active ingredient (D1, claim 4, c.f. claims 5 and 20 of the current application) and the concentrate comprises between 5 and 70% w/v of active ingredient (D1, claim 5, c.f. claims 6 and 21 of the current application). Claim 6 of D1 overlap with claims 7 and 22 of the current application, and claim 7 of D1 overlaps with claims 8 and 23 of the current application.

The bridging paragraph of pages 14-15 describes certain embodiments of the pathogenic fungus to be controlled, which includes "Magnaporthe grisea (rice blast)", see D1, page 15, line 2. The breadth of the spectrum of activity shown in D1 for choline pelargonate renders the claim of activity on rice plausible.

The aim of applying a fungicide to a plant is to increase the plant health and yield. The only increase in the yield of rice that has been demonstrated in the current application arises from the control of fungal disease that would otherwise reduce yields.

Consequently, the disclosure of D1 is considered to be implicitly novelty destroying for the subject matter of claims 1, 3-8, 14, and 15 as well as explicitly for the subject matter of claims 16, 18-23, 29, and 30.

Document D1 does not disclose all of the features in combination of the subject matter of claims 2, 9-13, 17, and 24-28. These claims are considered as being new.

Inventive Step (Art. 33(3) PCT)

Concerning the control of sheath blight in rice, which is caused by *Rhizoctonia solani*, D1 is the closest prior art. This document teaches the use of choline pelargonate as a fungicide in rice (D1, claims 1 and 9; page 14, line 7).

The difference between the subject matter of claim 1 insofar as it concerns sheath blight and that of D1 is that sheath blight (*Rhizoctonia solani*) is the disease controlled. There is no effect arising from this difference. The objective technical problem to be solved is the provision of an alternative method for controlling a fungal disease in rice. D1 teaches that the compositions of D1, the preferred being choline pelargonate, are suitable to control *Rhizoctonia* diseases (D1, page 14, lines 23, 28, 33). Thus, a method of controlling sheath blight in rice falls within the general teachings of D1.

These teachings are supported by D2, which shows the inhibition of *Rhizoctonia solani* by using the closely related caprylic acid (D2, example 16) and D2 justifiably treats pelargonic acid as a functional equivalent (D2, example 17 claim 5). The teachings of D1 are that choline pelargonate has the same activity of pelargonic acid while being less phytotoxic. From the teachings of D2 and D1, the skilled person would expect pelargonic acid and its choline salt to have activity against *Rhizoctonia solani*, with the latter being less phytotoxic.

Concerning the type of rice (claims 2 and 17), the skilled person would reasonably expect an antifungal activity against rice blast and sheath blight to be found with different kinds of rice.

Concerning claims 9 and 24: it is normal practice in the art to treat the above-ground parts of the rice.

Claims 10-12 and 25-27: no unexpected effects are associated with the application timings featured in these claims, which represent normal practice in the art, especially as preventative application is usually more successful than curative.

Claims 13 and 27: it is within the normal competence of the skilled person to establish a suitable application rate, depending on the circumstances, to control a disease in rice. The application rates of these claims are not associated with any inventive activity.

Consequently, no inventive step is acknowledged for the claimed subject matter.

Information on Search Strategy - Pilot phase (see OJ 2015, A86)

The type of information contained in this sheet may change during the pilot for improving the usefulness of this new service.

Application Number

PCT/EP2022/057720

TITLE: METHODS FOR IMPROVING RICE YIELD AND TREATING BLAST DISEASE, SHEATH BLIGHT DISEASE, OR A COMBINATION THEREOF ON A RICE PLANT

APPLICANT: BIPA NV

IPC CLASSIFICATION: A01N37/02, A01N33/12, A01P3/00, A01P13/00

EXAMINER: Davies, Maxwell

CONSULTED DATABASES: WPI, NPL

CLASSIFICATION SYMBOLS DEFINING EXTENT OF THE SEARCH:

IPC:

CPC: 1- A01N37/02,A01N33/12, A01N37/02, A01P13/00

FI/F-TERMS:

KEYWORDS OR OTHER ELEMENTS FEATURING THE INVENTION:

rice blash

sheath blight

choline pelargonate

Possible steps after receipt of the international search report (ISR) and written opinion of the International Searching Authority (WO/ISA)

General information

For all international applications, the competent International Searching Authority (**ISA**) will establish an international search report (**ISR**) accompanied by a written opinion of the International Searching Authority (**WO/ISA**). The **WO/ISA** may be responded to by

- filing informal comments with the **International Bureau of WIPO (IB)** (where no demand for international preliminary examination (**demand**) is filed)
- filing amendments under Art. 19 PCT (this can be done whether or not a **demand** is filed)
- filing amendments under Art. 34 PCT and/or formal observations in response to objections raised in the **WO/ISA** (where a **demand** is actually filed)

This document explains these possibilities.

Filing informal comments

After receipt of the **ISR** and **WO/ISA**, the applicant may file informal comments on the **WO/ISA**, **directly with the IB** (see International Search and Preliminary Examination Guidelines 2.15). These will be communicated to the designated/elected Offices, together with the International Preliminary Report on Patentability (**IPRP**) at 30 months from the priority date.

Amending claims under Art. 19 PCT

The applicant may file **amended claims** under Art. 19 PCT, **directly with the IB** by the later of the following dates:

- 2 months from the date of mailing of the **ISR** and the **WO/ISA**
- 16 months from the priority date

However, any such amendment received by the **IB** after the expiration of the applicable time limit shall be **considered to have been received on time** by the **IB**, if it reaches it **before** the technical preparations for international publication have been completed (the 15th day prior to the date of publication, see PCT Applicant's Guide, International Phase, 9.013).

For further information, please see Rule 46 PCT as well as form PCT/ISA/220.

Please also note that, when filing amended claims under Art. 19 PCT, such amendments shall be **accompanied by a letter** identifying the amendments made and also the basis for the amendments in the application as originally filed (Rule 46.5(b) PCT). Where a **demand** is filed, failure to comply with this requirement may result in the amendments being ignored in the International Preliminary Examination Report (**IPER**), see Rule 70.2(c-bis) PCT.

**Filing a demand
for international
preliminary
examination**

In principle, the **WO/ISA** will be considered to be the written opinion of the International Preliminary Examining Authority (**IPEA**). Where the **WO/ISA** issued by the **EPO** as **ISA** gives a positive opinion on the international application and the invention to which it relates, filing a **demand** with the **EPO** as **IPEA** would normally be unnecessary, since a positive IPRP would anyway be established by the **IB** based on the **WO/ISA** (see also further below).

If the applicant wishes to file a **demand** (for example, to allow him to argue his case in international preliminary examination with regard to objections raised in a negative **WO/ISA** before the **IPEA** issues an **IPEP**), this must be done before expiration of **3 months after the date of mailing of the ISR and WO/ISA** or **22 months after priority date**, whichever expires later (Rule 54*bis* PCT). Amendments under Art. 34 PCT can be filed with the **IPEA**, normally at the same time as filing the demand (Rule 66.1(b) PCT) or within the time limit set for reply to any written opinion issued during international preliminary examination by the **IPEA**.

If a **demand** is filed at the **EPO** as **IPEA** and no comments/amendments have been received by the time the **EPO** starts drawing up the **IPEP** (Rule 66.4*bis* PCT), the **WO/ISA** will be transformed by the **IPEA** into an **IPEP** (also called the **IPRP (Chapter II)** which would merely reflect the content of the **WO/ISA** (OJ 10/2011, 532). The **demand** can still be withdrawn (Art. 37 PCT).

Please also note that, when filing amendments under Art. 34 PCT, such amendments shall be accompanied by a letter which identifies the amendments made and also the basis for the amendments in the application as originally filed (Rule 66.8(a) PCT). Failure to comply with this requirement may result in the amendments being ignored in the **IPEP (IPRP (Chapter II))**, see Rule 70.2(c-*bis*) PCT.

**Filing a request
for supplementary
international
search**

The applicant may, with the **IB**, file a request for **supplementary international search** under Rule 45*bis*.1 PCT. The present **ISR** and **WO/ISA** may also be taken into account in the execution of that supplementary international search, provided that these are available to the Authority charged with this task before it starts the supplementary search (Rule 45*bis*.5 PCT).

This kind of request **cannot be filed specifying the ISA** who did the **international search**.

More information on this topic can be found in the **PCT Applicant's Guide**, Chapter 8 (<http://www.wipo.int/pct/en/guide/ip08.html>).

**End of the
international
phase**

Where no **demand** is filed, at the end of the international phase, the **IB** will transform the **WO/ISA** into the **IPRP (PCT Chapter I)** (Rule 44*bis* PCT), which will then be transmitted together with possible informal comments to the designated Offices. Where a demand is filed, the **WO/ISA** is not transformed into an **IPRP (Chapter I)** by the **IB**, but rather the **IPEA** will establish an **IPEP**, (the **IPEP** is the same as the **IPRP (PCT Chapter II)**, see Rule 70.15 PCT).

Bitte beachten Sie, dass angeführte Nichtpatentliteratur (wie z. B. wissenschaftliche oder technische Dokumente) je nach geltendem Recht dem Urheberrechtsschutz und/oder anderen Schutzarten für schriftliche Werke unterliegen könnte. Die Vervielfältigung urheberrechtlich geschützter Texte, ihre Verwendung in anderen elektronischen oder gedruckten Publikationen und ihre Weitergabe an Dritte ist ohne ausdrückliche Zustimmung des Rechtsinhabers nicht gestattet.

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