

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/EP2024/075036

International filing date (day/month/year)
06.09.2024

Priority date (day/month/year)
14.09.2023

International Patent Classification (IPC) or both national classification and IPC
INV. A01N47/20 A01P13/00

Applicant
SYNGENTA CROP PROTECTION 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

Date of completion of
this opinion

see form
PCT/ISA/210

Authorized Officer

Marie, Gérald

Telephone No. -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 43*bis*.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.
 - b. ☐ furnished subsequent to the international filing date for the purposes of international search (Rule 13*ter*.1(a)),
 - ☐ accompanied by a statement to the effect that the sequence listing does not go beyond the disclosure in the international application as filed.
4. ☐ With regard to any nucleotide and/or amino acid sequence disclosed in the international application, this opinion has been established to the extent that a meaningful opinion could be formed without a WIPO Standard ST.26 compliant sequence listing.
5. Additional comments:

Box No. V Reasoned statement under Rule 43*bis*.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>1-13</u>
	No: Claims	
Inventive step (IS)	Yes: Claims	
	No: Claims	<u>1-13</u>
Industrial applicability (IA)	Yes: Claims	<u>1-13</u>
	No: Claims	

2. Citations and explanations

see separate sheet

Re Item V

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

The documents to which this opinion refers are numbered in their order of appearance in the international search report.

1 Novelty (Article 33(2) PCT)

The requirements of Article 33(2) PCT are met because the present subject-matter is novel over the cited prior art.

Document **D1** (see cited passages in the search report) discloses substituted prop-1-ynyl-benzene compounds, in particular metproxybicyclone. Propylene carbonate is cited as a possible solvent. Formulations comprising the active ingredient, solvents and surface-active agents are mentioned therein. The present subject-matter differs from this document in the choice of propylene carbonate and the selection of at least one additional solvent.

Document **D2** (see cited passages in the search report) relates to herbicidal composition comprising (A) metproxybicyclone and (B) at least one herbicide, such as glufosinate.

The present subject-matter differs from this document in the presence of a specific solvent blend comprising propylene carbonate.

2 Inventive step (Article 33(3) PCT)

However, the requirements of Article 33(3) PCT are not considered to be met because none of the subject-matter as claimed involves an inventive step.

Inventive step of agrochemical mixtures often lies on synergism, insofar as synergistic effects are generally not predictable (surprising and non-obvious). The subject-matter of a claim embracing mixtures for which synergism has not been demonstrated are not allowable. If one accepts that a synergistic effect is not foreseeable and that even a slight structural modification can modify the contribution of the compound used, then a synergistic effect observed for one mixture cannot be extrapolated to another one.

This is all the more true in view of the example section, where a combination of propylene carbonate and acetophenone does not lead to an improved solubility of the active ingredient.

Inventive step can only be acknowledged for those specific solvent blends that show a surprising and/or non-obvious technical effect, here an improved solubility of the metproxycyclone. In addition, only specific ratios and amounts are linked to such an effect.

Consequently, starting from document **D1** as closest prior art document, the objective problem to be solved must be worded as the mere provision of an alternative formulation. The solution proposed in the claims corresponds to normal measures for the skilled artisan. The mere presence of usual ingredients in agrochemistry and their respective amounts cannot be regarded as an inventive contribution.

3 Industrial applicability (Article 33(4) PCT)

Industrial applicability of the present invention as claimed is acknowledged.