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Reexamination status of Gevo patents: USPTO orders re-examination of Gevo “AFT” Patent 8,017,376 and Butamax requests reexamination of Gevo “GIFT” Patent 8,101,808

WILMINGTON, Del., May 3, 2012 -- Butamax™ Advanced Biofuels, LLC announced today that it is requesting that the United States Patent and Trademark Office (USPTO) reexamine the Gevo “GIFT” Patent No. 8,101,808. This patent has 156 claims that relate to recovery of alcohols from fermentation.

The Butamax request for reexamination cites critical references not reviewed by the USPTO prior to the patent being granted, including a reference related to a validity challenge by Brazilian researchers. Butamax believes these references show that the technology claimed in the ‘808 patent was well known at the time the patent was filed. Butamax expects an answer to the reexamination request in early August. Gevo filed suit against Butamax asserting this patent in January 2012, and trial in this case is set for July 2014.

This request follows a March 23rd USPTO decision where an order was issued granting Butamax’s request for reexamination of Gevo patent 8,017,376 (“the ‘376 patent”). Further, the USPTO issued an Office Action rejecting claims 1-8, 10-15 and 17-20 of the ‘376 patent as anticipated by a Butamax patent application (International Publication No. WO 2011/103300 A2). This means that these claims are subject to reexamination by the USPTO on at least the basis that they were previously described in an earlier Butamax patent application.

Based on USPTO statistics, it is likely to be some time before the reexamination proceedings are concluded. On average, reexamination takes about three years. Since patents remain in effect during the reexamination process, the infringement lawsuit between Butamax and Gevo continues in parallel. The ‘376 patent was added to the litigation last September as a counterclaim to Butamax’s original suit against Gevo. Butamax requested that the counterclaims be dismissed since Butamax believes its isobutanol production technology does not fall within the scope of the ‘376 patent claims. A decision on Butamax’s request for preliminary injunction against Gevo is expected in the near term. Trial for this lawsuit is scheduled for April 2013.

The Butamax team began its research on biobutanol in 2004 resulting in key patent filings in 2005. These early priority filings continue to progress through the patent system. As part of an extensive patent portfolio, these Butamax patent applications encompass recombinant microorganisms that produce biobutanol, process engineering for recovering the biobutanol, and methods of making isobutanol.

About Butamax

Butamax™ Advanced Biofuels, LLC, a joint venture between BP and DuPont, was formed to develop and commercialize biobutanol as a next generation renewable biofuel for the transport market. The company benefits from the synergy of DuPont’s proven industrial biotechnology experience and BP’s global fuels market knowledge. Butamax’s proprietary technology offers a cost-advantaged manufacturing process for isobutanol with value from field to pump. For more information, visit www.butamax.com.

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