

Butamax Wins Federal Circuit Appeal

Scope of Fundamental Biobutanol Pathway Patents Upheld

WILMINGTON, Del., Feb. 19, 2014 – Butamax™ Advanced Biofuels, LLC, the leading biobutanol technology company, announces key Federal Circuit decision, holding that the District Court’s narrow interpretation of Butamax’s patents was in error. This decision paves the way for Butamax’s infringement case against Gevo on core biobutanol production patents to proceed under a favorable claim construction.

Gevo argued non-infringement of Butamax’s ‘188 and ‘889 patents by using a narrow definition of one of the enzymes in Butamax’s biobutanol pathway (the KARI enzyme). The Federal Circuit said that the narrow definition was incorrect and made clear that the plain meaning of Butamax’s patents applies. The Federal Circuit stated, that for the Butamax claims, a KARI enzyme is construed as “an enzyme, whether naturally occurring or otherwise, known by the EC 1.1.1.86 that catalyzes the conversion of acetolactate to 2,3-dihydroxyisovalerate.” Gevo public documents admit that their enzyme performs this step and Gevo itself has referred to this type of modified enzyme as having E.C. 1.1.1.86. Thus, Butamax is confident it will succeed in its infringement suit against Gevo.

The Federal Circuit also reversed the District Court’s decision on summary judgment that two of the claims of the ‘889 patent were invalid. The Federal Circuit stated that Butamax had raised sufficient basis to support its case for a jury trial on the validity of these claims. While the ‘188 and ‘889 patents are in reexamination at the USPTO, the patents remain valid and enforceable. These reexamination proceedings will continue for some time, however, they have already resulted in the USPTO examiner finding patentability of a Butamax patent claim. With this early indication of validity from the USPTO, Butamax is confident that key patent claims will withstand challenge. In addition to the ‘188 and ‘889 patents, Butamax has asserted six other patents against Gevo, three of which are set to go to trial this summer.

“We are extremely pleased with the multiple rulings in our favor from the Federal Circuit,” said Paul Beckwith, Butamax CEO. “These decisions strongly support Butamax’s efforts to protect its pioneering inventions covering economic production of isobutanol by fermentation. Butamax is uniquely positioned to provide ethanol producers with a high-value offering that mitigates the blend wall with IP-protected technology for isobutanol production, as well as differentiated co-products.”

About Butamax

Butamax™ Advanced Biofuels, LLC 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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