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BUTAMAX ACHIEVES SIGNIFICANT VICTORY OVER GEVO IN LONG RUNNING PATENT DISPUTE

Wilmington, Del, July 29, 2013 – Butamax™ announced that Judge Sue Robinson granted Butamax’s summary judgment motions for non-infringement of Gevo 8,017,375 (‘375) and 8,017,376 (‘376) patents. This decision, issued last Friday, closely follows the Court’s dismissal of all claims against Butamax relating to Gevo’s ‘808 “GIFT™” patent. In a further ruling, the Court also granted Butamax’s summary judgment motion for invalidity of the ‘375 patent stating that “Butamax has met its clear and convincing burden, sufficient to invalidate the patent for lack of enablement...”. The Court stated that there are still “issues of material fact” related to the validity of the ‘376 patent thereby precluding an entry of summary judgment.

The ‘375 and ‘376 patent lawsuit was the first suit brought against Butamax by Gevo. In September 2011, before these patents were even granted, Butamax wrote to Gevo informing them that Butamax did not use the technologies claimed, in those patents, and offered Gevo the opportunity to verify this through independent experts. However, instead of responding to Butamax’s offer, Gevo filed suit precipitating nearly two years of avoidable litigation activity.

“We have been clear from the outset that we do not infringe these patents, and are extremely pleased that the Court’s ruling confirms this,” stated Peter Matrai, Butamax’s COO.

“Considering Butamax’s willingness to allow Gevo to independently verify the facts, we do not believe that Gevo ever had a good faith belief that Butamax infringed either patent. Gevo’s apparent refusal to engage in pre-litigation due diligence and insistence on maintaining suit despite clear facts of non-infringement has resulted in millions of dollars of unnecessary costs for Butamax. We will seek to recover costs from Gevo through the Court.”

“With this decision, Butamax has prevailed on the first three of Gevo’s cases against Butamax with the patents being found unpatentable, invalid or not-infringed. We expect a similar outcome from their remaining suits,” added Paul Beckwith, Butamax’s CEO. “Meanwhile, Butamax’s appeal relating to our foundational ‘188 and ‘889 patents is progressing, with the Federal Circuit hearing likely to take place before the end of the year.” If successful, these two cases will return to the District Court, as well as six other patent cases that Butamax is asserting against Gevo, which are variously scheduled for trial during the summers of 2014 and 2015.