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Butamax Wins Big In Biofuels Patent Dispute

By William Pentland

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Butamax, an advanced biofuels company founded as a joint venture between BP BP -1.06% and DuPont in 2009, won a critical victory today in a lawsuit alleging that the Wilmington, DE-based company had infringed patents owned by a rival biofuels company.

In 2011, Gevo GEVO -0.8%, the Englewood, CO-based biofuels company, brought a lawsuit alleging that Butamax's then-pending patents infringed Gevo's biobutanol technology.

Biobutanol is an alternative biofuel that has several advantages compared to ethanol. For starters, biobutanol is more compatible with existing fuel infrastructure, especially pipelines. In addition, biobutanol can be blended with gasoline at higher concentrations compared to ethanol, which is limited to the so-called 10% blend wall.

In an order issued late Friday, U.S. District Court Judge Sue Robinson decided that Butamax had not infringed two patents – 8,017,375 ('375) and 8,017,376 ('376) – owned by Gevo.

“The decision in favor of BP's Butamax joint venture with DuPont deals a serious blow to Gevo at least relative to the subject matter of the Gevo's '375 and '376 patents,” said Victor Cardona, a partner at the Albany, NY-based law firm of Heslin Rothenberg Farley & Mesiti.

In a separate ruling, the Court held that the '375 patent is invalid, which “means it was essentially declared dead,” according to Cardona.

“A ruling of invalidity is never good news for any patent owner asserting a patent against a larger foe, particularly with issues related to the 376 still to be proven in this litigation,” Cardona said.