

Butamax™ Advanced Biofuels LLC

A joint venture between BP and DuPont  

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Appeal Court's Direction on Claim Construction is Strategically Important for Butamax's Case Against Gevo Scheduled for April 2013

WILMINGTON, Del., Nov. 19, 2012 -- Butamax™ Advanced Biofuels, LLC, the leading biobutanol technology company, commented on the decision by the Federal Circuit. While the Federal Circuit affirmed the District Court's preliminary injunction decision, Butamax is pleased with the Federal Circuit's direction on claim construction. The District Court's narrow interpretation of Butamax's patent was not endorsed and, in the words of the Federal Circuit:

"...this court's affirmance should not be read to endorse the trial court's very questionable construction of the claim term "acetohydroxy acid isomeroeductase" – that is "as an enzyme that is solely NADPH dependent. The trial court should reconsider its construction when it holds a Markman hearing."

Gevo had argued that it did not infringe Butamax's patent because of this narrowed scope of the KARI enzyme. Butamax is confident that, with a revised claim construction, it will succeed in its infringement arguments against Gevo. The Federal Circuit also commented that Butamax did not demonstrate that Gevo's arguments on validity lacked substantial merit as required for the grant of a preliminary injunction. Butamax will address these issues at the April 2013 trial, which will also cover the full scope of the '188 and '889 patents.

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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