

PATENT COOPERATION TREATY

**TRANSLATION**

From the  
INTERNATIONAL SEARCHING AUTHORITY

**PCT**

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

To:

Date of mailing (day/month/year) **See form PCT/ISA/210**

Applicant's or agent's file reference <b>BCS083090-WO</b>		<b>FOR FURTHER ACTION</b> See paragraph 2 below
International application No. <b>PCT/EP2009/008260</b>	International filing date (day/month/year) <b>20.11.2009</b>	Priority date (day/month/year) <b>02.12.2008</b>
International Patent Classification (IPC) or both national classification and IPC <b>C07D209/54 A01N43/38</b>		
Applicant <b>BAYER CROPSCIENCE AKTIENGESELLSCHAFT</b>		

1. This opinion contains indications relating to the following items:

- Box No. I Basis of the opinion
- Box No. II Priority
- Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- Box No. IV Lack of unity of invention
- Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- Box No. VI Certain documents cited
- Box No. VII Certain defects in the international application
- Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/EP	Date of completion of this opinion	Authorized officer
Facsimile No.		Telephone No.

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Box No. I	Basis of this opinion
1.	<p>With regard to the <b>language</b>, this opinion has been established on the basis of:</p> <p><input checked="" type="checkbox"/> the international application in the language in which it was filed</p> <p><input type="checkbox"/> a translation of the international application into _____, which is the language of a translation furnished for the purposes of international search (Rules 12.3(a) and 23.1(b)).</p>
2.	<p><input type="checkbox"/> This opinion has been established taking into account the <b>rectification of an obvious mistake</b> authorized by or notified to this Authority under Rule 91 (Rule 43bis.1(a))</p>
3.	<p>With regard to any <b>nucleotide and/or amino acid sequence</b> disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:</p> <p>a. type of material</p> <p><input type="checkbox"/> a sequence listing</p> <p><input type="checkbox"/> table(s) related to the sequence listing</p> <p>b. format of material</p> <p><input type="checkbox"/> on paper</p> <p><input type="checkbox"/> in electronic form</p> <p>c. time of filing/furnishing</p> <p><input type="checkbox"/> contained in the international application as filed</p> <p><input type="checkbox"/> filed together with the international application in electronic form</p> <p><input type="checkbox"/> furnished subsequently to this Authority for the purposes of search</p>
4.	<p><input type="checkbox"/> In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.</p>
5.	<p>Additional comments:</p>

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<b>Box No. V</b>	<b>Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</b>																		
1. Statement																			
<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 20%; padding: 2px;">Novelty (N)</td> <td style="padding: 2px;">Claims <u>1-28</u></td> <td style="width: 10%; text-align: right; padding: 2px;">YES</td> </tr> <tr> <td></td> <td style="padding: 2px;">Claims _____</td> <td style="width: 10%; text-align: right; padding: 2px;">NO</td> </tr> <tr> <td style="padding: 2px;">Inventive step (IS)</td> <td style="padding: 2px;">Claims <u>1-28</u></td> <td style="width: 10%; text-align: right; padding: 2px;">YES</td> </tr> <tr> <td></td> <td style="padding: 2px;">Claims _____</td> <td style="width: 10%; text-align: right; padding: 2px;">NO</td> </tr> <tr> <td style="padding: 2px;">Industrial applicability (IA)</td> <td style="padding: 2px;">Claims <u>1-28</u></td> <td style="width: 10%; text-align: right; padding: 2px;">YES</td> </tr> <tr> <td></td> <td style="padding: 2px;">Claims _____</td> <td style="width: 10%; text-align: right; padding: 2px;">NO</td> </tr> </table>	Novelty (N)	Claims <u>1-28</u>	YES		Claims _____	NO	Inventive step (IS)	Claims <u>1-28</u>	YES		Claims _____	NO	Industrial applicability (IA)	Claims <u>1-28</u>	YES		Claims _____	NO	
Novelty (N)	Claims <u>1-28</u>	YES																	
	Claims _____	NO																	
Inventive step (IS)	Claims <u>1-28</u>	YES																	
	Claims _____	NO																	
Industrial applicability (IA)	Claims <u>1-28</u>	YES																	
	Claims _____	NO																	
2. Citations and explanations:																			
<p>Reference is made to the following document:</p> <p style="padding-left: 40px;">D1: WO 2006/000355 A (BAYER CROPSCIENCE AG [DE]; FISCHER REINER [DE]; GAERTZEN OLIVER [DE];) 5 January 2006 (2006-01-05) cited in the application</p> <p>Document D1 is considered to be the prior art closest to the subject matter of claims 1-17 and 25-28 and describes compounds of the formula (I) as pesticides and/or herbicides. The difference between the compounds from D1 and the compounds of the present application is that the compounds of the present application are substituted by A and B, where A and B are bonded to the same carbon atom. Therefore, the subject matter of claims 1-17 and 25-28 is novel.</p> <p>The problem addressed was to provide alternative compounds for control of pests. Proceeding from D1, a person skilled in the art would not arrive at the solution of the present application because he does not receive any instruction, either in D1 or in the earlier prior art, to substitute the compounds from D1 with A/B, where A and B are bonded to the same carbon atom.</p>																			

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**Box No. V** Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability;  
citations and explanations supporting such statement

The subject matter of claims 1-17 and 25-28 is therefore considered to be inventive.

Claims 18-24 claim intermediates. These compounds are novel and are also considered to be inventive because they possess the inventive A/B feature.