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USA: Bayer CropScience AG v. Dow AgroSciences LLC, United States Court of Appeals, Federal Circuit, No. 2015-1854, 17 March 2017

Cheryl Beise (Wolters Kluwer Legal & Regulatory US) · Wednesday, March 22nd, 2017

The federal district court in Wilmington, Delaware, did not abuse its discretion in finding that Bayer CropScience's infringement suit against agrochemical rival Dow AgroSciences over soybean gene technology qualified as an "exceptional case" warranting an award of attorney fees under Section 285 of the Patent Act, the U.S. Court of Appeals for the Federal Circuit has held. Dow's commercial exploitation of the patents was authorized under the terms of a license between Bayer and a third-party. The district court properly examined the totality of circumstances in finding that Bayer's litigation conduct and its weak legal positions made the case exceptional (Bayer CropScience AG v. Dow AgroSciences LLC, March 17, 2017, Stoll, K.).

A full summary of this case has been published on [Kluwer IP Law](#)

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