

# United States Court of Appeals for the Federal Circuit

## ERRATA

April 4, 2008

Appeal No. 2007-1109

Precedential Opinion, Monsanto v. Bayer Bioscience

Decided: January 25, 2008

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On page 3, footnote 5: add “, of the Bt2 class of toxins.” at the end of the last sentence.

On page 8, line 6: insert “, including the sequence specific claims,” after “rejected all claims”

On page 8, line 24: insert “canceled its broadest claims and” after “In reply to the office action, Bayer”

On page 9, line 25: insert “3.4 kB” after “truncated a”

On page 9, line 25: insert new footnote 9 after “Bt toxin gene”: “kB, or kilobases, is a unit of length equal to 1000 base pairs of DNA. The Bt2 toxin gene Bayer was using was also approximately 3.4 kB.”

On page 14, footnote 11: replace “at the time, Bayer was arguing that” with “despite having canceled the broader claims ‘solely to expedite the prosecution of th[e] application, and not to acquiesce to the rejection,’ at the time Bayer distinguished Barnes, it was continuing to argue that”

On page 16, line 11: replace “and thus one that encoded” with “which for the Bt2 gene would encode”

On page 16, line 11: insert “smaller than 67 kD and” after “a size”

On page 16, footnote 14: delete footnote