

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION**

BAYER CROPSCIENCE AG,)
BAYER CROPSCIENCE NV,)
)
 Plaintiffs,)
)
 v.)
)
DOW AGROSCIENCES LLC)
MYCOGEN PLANT SCIENCE, INC.,)
AGRIGENETICS, INC. d/b/a)
MYCOGEN SEEDS, LLC, AND)
PHYTOGEN SEED COMPANY, LLC,)
)
 Defendants.)

Civil Action No. 2:12-cv-47-RAJ/RJK

**NOTICE OF APPEAL OF DEFENDANTS DOW AGROSCIENCES LLC,
MYCOGEN PLANT SCIENCE, INC., AGRIGENETICS, INC.
d/b/a MYCOGEN SEEDS, LLC, AND PHYTOGEN SEED COMPANY, LLC**

Notice is hereby given that Defendants Dow AgroSciences LLC, Mycogen Plant Science, Inc., Agrigenetics, Inc. d/b/a Mycogen Seeds, LLC, and Phytogen Seed Company, LLC (collectively, “Defendants”) hereby appeal to the United States Court of Appeals for the Federal Circuit from each and every part of:

(i) the Memorandum Opinion and Order dated January 15, 2016 (D.I. 206), which granted Plaintiffs’ Motion to Confirm Final Arbitration Award (D.I. 113), denied Defendants’ Motion to Vacate the Arbitration Award (D.I. 132) and denied Defendants’ Motion to Stay Proceedings Concerning Plaintiffs’ Motion to Confirm (D.I. 134);

(ii) the Order entered on January 15, 2016 (D.I. 207), which granted Plaintiffs’ Motion to Confirm Final Arbitration Award, confirmed the Final Arbitration Award in ICC Case No.

18892/VRO/AGF dated October 9, 2015, entered judgment in favor of Plaintiffs and against Defendants (the “Award”) in the amount of \$455,459,187, and ordered that Plaintiffs shall recover post-award interest of 8% per year accruing from the date of the award, October 9, 2015, on any amount outstanding on the Award at the end of thirty days from notification of the Award;

(iii) the Judgment dated January 15, 2016 and entered on the docket on January 19, 2016 (D.I. 208, the “Final Judgment”); and

(iv) any and all other judgments, orders, opinions, decisions, rulings, and findings of the Court entered prior or subsequent to the entry of the Final Judgment.

Dated: January 25, 2016

Respectfully submitted,

DOW AGROSCIENCES LLC, MYCOGEN PLANT SCIENCE, INC., AGRIGENETICS, INC.
d/b/a MYCOGEN SEEDS, LLC, and PHYTOGEN SEED COMPANY, LLC

/s/ Robert W. McFarland

Robert W. McFarland
(VSB No. 24021)
MCGUIREWOODS LLP
101 W. Main Street, Suite 9000
Norfolk, Virginia 23510
(757) 640-3716

David J. Lender
(admitted *pro hac vice*)
Elizabeth S. Weiswasser
(admitted *pro hac vice*)
WEIL, GOTSHAL &
MANGES LLP
767 5th Avenue
New York, NY 10153
(212) 310-8000

Peter A. Bicks
(admitted *pro hac vice*)
Robert L. Sills
(admitted *pro hac vice*)
Alex V. Chachkes
(admitted *pro hac vice*)
ORRICK, HERRINGTON &
SUTCLIFFE LLP
51 West 52nd Street
New York, NY 10019
(212) 506-5000

CERTIFICATE OF SERVICE

I hereby certify that on January 25, 2016, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will automatically e-mail notification of such filing to:

Robert J. Koch
Edward J. Mayle
Counsel for Plaintiffs Bayer CropScience AG
and Bayer CropScience NV
MILBANK, TWEED, HADLEY & MCCLOY, LLP
1850 K Street, N.W., Suite 1100
Washington, D.C. 20006
Tel. (202) 835-7500
Fax (202) 263-7500
rkoch@milbank.com
emayle@milbank.com

Stephen E. Noona
KAUFMAN & CANOLES, P.C.
150 West Main Street
Norfolk, Virginia 23514
Tel. (757) 624-3000
Fax (757) 624-3169
senoona@kaufcan.com

To the best of my knowledge, there are no other attorneys who require service by U.S. mail.

/s/ Robert W. McFarland
Robert W. McFarland (VSB No. 24021)
MCGUIREWOODS LLP
101 West Main Street, Suite 9000
Norfolk, Virginia 23510
Telephone: (757) 640-3716
Facsimile: (757) 640-3966
E-mail: rmcfarland@mcguirewoods.com

*Attorney for Defendants Dow AgroSciences
LLC, Mycogen Plant Science, Inc.,
Agrigenetics, Inc. d/b/a Mycogen Seeds, LLC,
and Phytogen Seed Company, LLC*