

NOTE: This order is nonprecedential.

**United States Court of Appeals
for the Federal Circuit**

BUTAMAX(TM) ADVANCED BIOFUELS LLC,
Plaintiff/Counterclaim Defendant-Appellant,

AND

E.I. DUPONT DE NEMOURS AND CO.,
Counterclaim Defendant,

v.

GEVO, INC.,
*Defendant/Counterclaimant-
Cross Appellant.*

2012-1490, -1508

Appeals from the United States District Court for the District of Delaware in case no. 11-CV-0054, Judge Sue L. Robinson.

ON MOTION

Before PROST, MAYER, and REYNA, *Circuit Judges.*
PROST, *Circuit Judge.*

O R D E R

Gevo, Inc. moves for a stay, pending appeal, of the injunction entered by the United States District Court for the District of Delaware. Butamax™ Advanced Biofuels LLC opposes.

In deciding whether to grant a stay or injunction, pending appeal, this court “assesses the movant’s chances of success on the merits and weighs the equities as they affect the parties and the public.” *E.I. Dupont de Nemours & Co. v. Phillips Petroleum Co.*, 835 F.2d 277, 278 (Fed. Cir. 1987); *see also Standard Havens Prods. v. Gencor Indus.*, 897 F.2d 511 (Fed. Cir. 1990). To prevail, a movant must establish a strong likelihood of success on the merits or, failing that, must demonstrate that it has a substantial case on the merits and that the harm factors militate in its favor. *Hilton v. Braunskill*, 481 U.S. 770, 778 (1987).

Upon consideration thereof,

IT IS ORDERED THAT:

The motion is granted.

FOR THE COURT

AUG 10 2012

Date

/s/ Jan Horbaly

Jan Horbaly

Clerk

cc: Leora Ben-Ami, Esq.
Gerald J. Flattmann, Jr., Esq.

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FILED
U.S. COURT OF APPEALS FOR
THE FEDERAL CIRCUIT

AUG 10 2012

JAN HORBALY
CLERK