

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

IN RE: METHOD OF PROCESSING)
ETHANOL BYPRODUCTS AND)
RELATED SUBSYSTEMS ('858) PATENT)
LITIGATION)

No. 1:10-ml-02181-LJM-DML

RELATED CASES:)
1:10-cv-00180-LJM-DML)
1:10-cv-08000-LJM-DML)
1:10-cv-08001-LJM-DML)
1:10-cv-08002-LJM-DML)
1:10-cv-08003-LJM-DML)
1:10-cv-08004-LJM-DML)
1:10-cv-08005-LJM-DML)
1:10-cv-08006-LJM-DML)
1:10-cv-08007-LJM-DML)
1:10-cv-08008-LJM-DML)
1:10-cv-08009-LJM-DML)
1:10-cv-08010-LJM-DML)
1:13-cv-08012-LJM-DML)
1:13-cv-08013-LJM-DML)
1:13-cv-08014-LJM-DML)
1:13-cv-08015-LJM-DML)
1:13-cv-08016-LJM-DML)
1:13-cv-08017-LJM-DML)
1:13-cv-08018-LJM-DML)
1:14-cv-08019-LJM-DML)
1:14-cv-08020-LJM-DML)

ORDER

Plaintiffs GS Cleantech Corporation and Greenshift Corporation (collectively, "CleanTech") in this multi-district litigation have filed a Motion to Alter or Amend Judgment pursuant to Rule 59(e) of the Federal Rules of Civil Procedure ("Motion to Amend"), directed to this Court's entry of final judgment on Defendants'/Counterclaim Plaintiffs' ACE Ethanol, LLC; GEA Mechanical Equipment US, Inc.; Al-Corn Clean Fuel; Blue Flint

Ethanol, LLC; Big River Resources – Galva; Big River Resources – West Burlington, LLC; Cardinal Ethanol; Flottweig Separation Technologies; Guardian Energy, LLC; ICM, Inc.; Lincolnway Energy, LLC; LincolnLand Agri-Energy, LLC; Little Sioux Corn Processors, LLLP; Pacific Ethanol Magic Valley, LLC; Southwest Iowa Renewable Energy, LLC; David Vander Griend; Western New York Energy, LLC; Bushmills Ethanol, Inc.; Chippewa Valley Ethanol Company, LLC; Heartland Corn Products; United Wisconsin Grain Producers; Aemetis, Inc.; Aemetis Advanced Fuels Keyes, Inc.; Pacific Ethanol Stockton; and Iroquois Bio-Energy, Co. (collectively, “Defendants”), affirmative defenses and/or counterclaims of invalidity and inequitable conduct. CleanTech asserts that the judgment is a manifest error of law or fact based on evidence and legal authority that was unavailable at the time the Court entered its Order on Cross Motions for Summary Judgment (“SJ Order”). See Master Docket No. (“MDN”) 1668 at 3. The Motion to Amend is DENIED for the following reason.

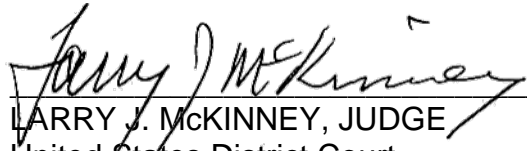
CleanTech raises only one issue that it asserts requires reconsideration of the Court’s SJ Order: the decision of a patent examiner as to a related patent to the patents in suit, which the Court excluded during trial, but issued after the Court’s SJ Order. CleanTech goes on to urge that, as newly discovered evidence, the patent officer’s decision should be now considered.

Even if the patent examiner’s decision had been available to the Court prior to its ruling on the summary judgment motions, the Court would not have considered it for the same reason that such evidence was excluded at the trial on inequitable conduct. There being no other reasons to alter or amend the judgment, CleanTech’s Motion to Amend, MDN 1665, is **DENIED**.

CleanTech's companion Motion to Defer Briefing on Defendants' Exceptional Case Motion, MDN 1669, is **DENIED as MOOT**.

Defendants shall have 28 days from the date of this Order to file a brief in support of their Exceptional Case Motion; CleanTech shall have 28 days thereafter to file its response; Defendants shall have 14 days thereafter to file a reply.

IT IS SO ORDERED this 19th day of January, 2017.


LARRY J. MCKINNEY, JUDGE
United States District Court
Southern District of Indiana

Electronically distributed to all registered counsel of record via ECF.