



The use of biodiversity as a means of adaptation to climate change is a Monsanto invention

European Patent Office rejects an appeal against a patent on soybean breeding

29 October 2024 / The European Patent Office (EPO) has rejected an appeal filed against a patent granted to Monsanto (now Bayer). Patent EP2134870 covers the breeding of soybeans and their adaptation to various climatic conditions. The claims in the Monsanto patent constitute a monopoly on the use of natural gene variants to select plants for conventional breeding. All the gene variants were discovered in wild and cultivated soybean plants found in Asia and Australia, which is where soybeans originate from.

“This decision is alarming in terms of plant breeding and climate change. It also significantly obstructs access to urgently needed biodiversity. The use of naturally-occurring gene variants to select plants is a standard procedure in plant breeding and not an invention,” says Carla Hoinkes from Public Eye.

This position is further confirmed in a written statement submitted by Professor Michel Haring at Swammerdam Institute for Life Sciences at the University of Amsterdam, who says that the breeding methods described in the patent are “not based on an inventive step”. The EPO previously agreed with this position in its earlier assessments of the patent. However, it has now ultimately rejected both the opposition filed in 2014



and the appeal filed in 2018. Further legal action is no longer possible. Swissaid believes this is proof that the legislator is failing to fulfil the legal duty to ensure the correct interpretation of the prohibitions in patent law: “There are good reasons why patents on plant breeding and plant varieties are prohibited in European patent law. And politicians are doing too little to enforce these prohibitions,” says Simon Degelo from Swissaid. “Access to biodiversity in the context of plant breeding is also essential for the Global South.”

Johanna Eckhardt from the international coalition of *No Patents on Seeds!*, which includes Public Eye, Swissaid and ProSpecieRara, followed the EPO hearing in Munich: “This patent is biopiracy on an unprecedented scale. Companies are trying to take control of the genetic diversity we need to secure our food supply. Our recent report highlights the consequences for Europe – and shows how the interpretation of patent law needs to be corrected to stop this development.”

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Further information

The soybean patent: <https://www.no-patents-on-seeds.org/en/patent-cases/soybean>

The report: <https://www.no-patents-on-seeds.org/en/report-2024>

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