



One last round of free beer!

European Patent Office to make a decision on patents claiming plants and animals

7 June 2017 / Today members of the international coalition *No Patents on Seeds!* will arrive outside the European Patent Office (EPO) with a barrel of organic, non-alcoholic beer on a wagon pulled by six brewery horses. Their purpose: to deliver an opposition against a third patent on barley and beer granted to Carlsberg and Heineken in 2016 (EP 2575433). These major beer brewing companies are claiming barley and beer as their invention. The opposition was filed jointly by around 40 organisations.

The patent covers barley plants that supposedly make beer brewing simpler. The plants were bred using conventional breeding methods and are not a product of genetic engineering. The companies already hold two patents on barley plants that produce kernels which – owing to random mutations in the genome – lack certain characteristics that can negatively impact the taste of beer. This third patent claims plants resulting from the crossing of the two barley varieties claimed in the other two patents. The aim of further crossing the plants was to have a combination of the desired traits in a single variety. The patent covers the barley, the brewing process and the beer brewed with the barley.

“Obviously, this patent is completely unacceptable: random mutations are not an invention. The plants resulting from further crossing are not patentable,” says Erling Frederiksen from NOAH in Denmark. “This patent is an example of the continued abuse of patent law with the intention of monopolising the resources of food production. Nobody should be allowed to control food crops regardless of whether barley, rice or wheat.”

Patents such as the one on barley can still be granted in future. However, after more than ten years of protest from civil society organisations, the 38 Contracting States of the EPO will meet at the end of June at Administrative Council of the EPO in La Hague to make a decision in favour of strengthening the current prohibitions in patent law. According to a proposal presented by the EPO, plants and animals that are exclusively derived from crossing and selection will no longer be regarded as patentable in Europe. Nevertheless, the current proposal still foresees far-reaching exemptions. For example, if random mutations are identified in the plants or animals they still can be patented as 'inventions'. Thus, patents such as the one on barley and beer could still be granted in future. The proposal is further inconsistent with the interpretation of patent law put forward by the European Commission in November 2016, which stated that only methods of genetic engineering that directly intervene in the genome of plants or animals can be regarded as patentable. In fact, the EU Parliament demanded a complete prohibition of patents on conventional breeding.

“Patents on conventional breeding are a threat to global food security. The big companies are driven by their own profits and not by the needs of broader society,” Fabian Molina says for the development organisation Swissaid. “These patents on seeds can stop traditional breeders from developing food plants adapted regional needs. We need legal certainty that their freedom to operate is not hampered by patents.”

The organisations behind the coalition *No Patents on Seeds!* are demanding that all conventional breeding is excluded from patentability.

“Today we may be serving the last round of “free” beer to the staff members of the EPO. In its actions to date, the EPO has consistently put the interests of big business and the legal profession before the public interest. The patent system can only be legitimate if it abides by the law and rules to serve the interests of society as a whole,” says Christoph Then for *No Patents on Seeds!* “We are demanding that the EPO changes its ways and finally implements effective prohibitions in patent law since these are of utmost importance to consumers, farmers and breeders.”

Organisations joining the opposition are Arbeitsgemeinschaft bäuerliche Landwirtschaft (AbL), Arbeitsgemeinschaft der Umweltbeauftragten der Gliedkirchen der Evangelischen Kirche in Deutschland (AGU), Arche Noah Austria, ARGE Schöpfungsverantwortung Austria, Bioland, Bread for the World, Bündnis gentechnikfreie Landwirtschaft, BUND Naturschutz Bayern (BN), Friends of the Earth, Germany (BUND), Bundesverband Naturkost Naturwaren (BNN), Campact, Copenhagen Food co-operative Denmark, Die Freien Bäcker, Evangelischer Dienst auf dem Land in der EKD (EDL), Erzeugergemeinschaft für ökologische Braurohstoffe (EZÖB), Erzeugergemeinschaft Bördeland und Diemetal, FIAN, GAIA Portugal, Gäa e.V.- Vereinigung ökologischer Landbau, Gen-ethisches Netzwerk (GeN), HORIZONT3000 Austria, IG Milch Austria, IG Nachbau, Katholische Landvolkbewegung (KLB), No Patents on Life!, No Patents on Seeds!, NOAH – Friends of the Earth Denmark, Plataforma transgenicos fora Portugal, Pro Regenwald, ProSpecie Rara Switzerland, Sambucus, Save Our Seeds!, Slow Food Germany, Swissaid, Umweltinstitut München, Verband Katholisches Landvolk (VKL), Welthaus Diözese Graz-Seckau Austria, WeMove.EU, Zivilcourage Rosenheim and Zukunftsstiftung Landwirtschaft.

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The Patent of Carlsberg and Heineken: <http://no-patents-on-seeds.org/en/information/patent-cases/energy-saving-brewing-method>

The opposition against the patent: <http://no-patents-on-seeds.org/en/information/background/opposition-against-european-patent-ep-2-575-433-b1>

Further informations: www.no-patents-on-beer.org