

Opposition to stop Monsanto soybean patent biopiracy

Patent could be used to hamper further breeding of soybeans in regard to ongoing climate change

2 December 2014 / Members of the coalition of *No Patents on Seeds!* have filed an opposition against a European patent held by the US company Monsanto. They are accusing Monsanto of biopiracy. The patent EP2134870 was granted in February 2014 by the European Patent Office (EPO) and covers selecting soybean plants adapted to various climate zones for further breeding. For the patent, Monsanto screened more than 250 plants from “exotic” species closely related to the soybean. They were screened specifically for their genetic diversity regarding climate adaptation and the period of time needed to maturity and harvest. The plants were taken from both wild and cultivated species in Asia and Australia. In the patent Monsanto claims the usage of hundreds of DNA sequences originating from natural genetic diversity. Further, the patent also applies to other regions such as the US, Canada, China and South Africa. While the EPO has been first to grant the patent, it was issued in the US in September 2014.

The opposition is based on Article 53b of the European Patent Convention (EPC) which prohibits patents on processes for plant breeding. Currently, the European Patent Office interprets the prohibition of Article 53 (b) in such a way that no patents can be granted on crossing and subsequent selection. However, if selection is performed before crossing, this is considered to be patentable.

“This patent is a striking example of the legal absurdity intentionally created by the EPO to serve the interests of companies such as Monsanto. The only thing needed to avoid the legal prohibitions is some skillful wording of the claims”, says Francois Meienberg from Berne Declaration, which is part of the *Coalition of No Patents on Seeds!*. “There is an easy explanation as to why such patents are granted contrary to existing patent law: The EPO is earning money by issuing patents. In 2013, the EPO earned 1.5 Billion € from granting patents and fees.”

The organisations behind the coalition of *No Patents on Seeds!* do not expect the EPO to solve the problem in its decision-making process. A recently published legal analysis by the coalition concluded that the pending precedent cases concerning patents on tomatoes and broccoli will not stop the EPO from granting any more patents such as the one described above on the selection of soybeans. In fact, another similar European patent was granted to Monsanto covering the selection of soybeans for rust disease resistance (EP 2271201) in July 2014.

Political action is needed to stop the EPO from granting any more of these patents. The organisations behind the coalition of *No Patents on Seeds!* are urging the contracting States of the EPO to take political control. They should make sure that the current interpretation of patent law is changed. In this context *No Patents on Seeds!* are drawing attention to a resolution adopted by the European Parliament in May 2012, which “calls on the EPO to exclude from patenting products derived from conventional breeding and all conventional breeding methods.” However, the EPO has largely ignored this resolution. A political decision should be taken by the Administrative Council, which is made up of representatives of the European governments, to make sure the EPO implements the resolution. The organisations involved in this campaign have already gained substantial political support: The German government has announced a European initiative and, in January 2014, the French Senate asked the government of France to become actively involved.

“The patents granted by the EPO are putting Monsanto into a position to hamper or even block access to the most basic prerequisite in plant breeding - the usage of natural genetic diversity. These

patents are endangering agro-biodiversity and adaptability of food production systems needed to meet the challenges of climate change. They are putting our global and regional food security at risk”, Francois Meienberg is warning.

The organisations behind the coalition of *No Patents on Seeds!* are concerned that patents on plant and animal breeding will foster further market concentration, making farmers and other stakeholders of the food supply chain even more dependent on just a few big international companies and ultimately reduce consumer choice. The coalition of *No Patents on Seeds!* is organised by Bionext (Netherlands), The Berne Declaration (Switzerland), GeneWatch (UK), Greenpeace, Misereor (Germany), Development Fund (Norway), No Patents on Life (Germany), Red de Semillas (Spain), Rete Semi Rurali (Italy), Reseau Semences Paysannes (France) and Swissaid (Switzerland). They are calling for a revision of European Patent Law to exclude breeding material, plants and animals and food derived thereof from patentability. The coalition is supported by several hundred other organisations.

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More information:

Backgrounder on the patent:

<http://www.no-patents-on-seeds.org/en/information/background/opposition-against-monsanto-patent-ep2134870-selection-soybeans>

Monsanto patent:

<http://www.no-patents-on-seeds.org/en/information/patent-cases/screening-and-selecting-soybean-plants-adapted-various-climate-zones>

Opposition (in German):

<http://www.no-patents-on-seeds.org/de/information/hintergrund/einspruch-gegen-patent-ep-2134870-b1>

Report of No Patents on Seeds:

<http://www.no-patents-on-seeds.org/en/information/news/patent-industry-selling-out-future-our-food>