Opposition against a patent on maize with previously known traits

Patent research shows alarming new cases of patents on seeds

16 May 2023 / *No Patents on Seeds!* will be filing an opposition this week at the European Patent Office (EPO) against a patent on maize. The patent, EP 3380618, is owned by the German company, KWS, and covers maize plants which will grow in a colder climate. These plants were bred from maize plant populations already known to tolerate colder conditions.



"Plants with the traits claimed in the patent have been present on the market for years. Granting these patents just increases legal risks, costs and uncertainties," says Grietje Raaphorst, a representative of the Dutch company, Nordic Maize Breeding. "It could mean that Nordic Maize Breeding will be the last company to start a maize breeding program and the freedom to breed will come to an end."

As yet, European plant breeding law guarantees the right of breeders to use all conventionally-bred varieties for further breeding and the marketing of new seeds. However, the claims in the aforementioned patent cover the use of all plants and plant varieties with the described traits for further breeding. At the same time, it will be almost impossible for many breeders to find out whether their varieties are affected. The only way for them to continue breeding will be to sign license contracts with the patent holder, which would then create new dependencies and additional costs. Only the big companies will survive such market conditions.

"Genetic engineering and tools such as CRISPR/Cas are mentioned in the patent in order to dress it up as a technical invention, while the plants are, in fact, simply derived from conventional breeding, and thus not patentable. This patent is against all the principles embodied in patent law: already existing plants are not new, the processes applied are not technical and plant varieties are explicitly excluded from patentability," says Christoph Then from *No Patents on Seeds!.*

The patent is just one example of the findings from recent *No Patents on Seeds!* research. A new report will today be handed over to the EPO in The Hague and presented in a workshop with experts. It shows that, alone in 2022, the EPO granted more than 20 patents on conventionally-bred plants. In addition, around a hundred new patent applications were published last year.

"The development will also have serious consequences for countries in the Global South. Europe must now give a clear sign that it wants to stop this trend. Political decisions have to be taken as soon as possible, otherwise patents on seeds will undermine farmers' and breeders' access to genetic resources, which will, in turn, negatively impact their ability to produce food. Patents on seeds are absolutely a threat to global food security," says Nout van der Vaart from Oxfam Novib.

The international coalition, *No Patents on Seeds!,* is demanding a change in the current interpretation of the European patent law. "There is a quick and easy way to stop these patents by making the current interpretation of prohibitions more precise in order to close the existing loopholes", Katherine Dolan from Arche Noah, says. "The first model law reflecting this new interpretation was recently adopted by the Austrian parliament. Other nations need to follow and the European Patent Office needs to change its rules for the interpretation of the European Patent Convention."

No Patents on Seeds! will continue to cooperate with farmers, breeders, experts and civil society organisations to raise awareness of the consequences of granting patents on conventionally-bred seeds. The organisation has already contributed to several legal improvements in recent years. The aim in the near future is to finally stop patents from being granted on conventionally-bred plants.

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Further information

- The research report „The future of plant breeding is under threat in Europe“: https://www.no-patents-on-seeds.org/en/report2023
- More about the KWS maize patent: https://www.no-patents-on-seeds.org/en/maize-cold-resistance
- Photos of the public activity in The Hague will be available as soon as possible here: https://www.no-patents-on-seeds.org/en/activity/the-hague

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