NO PATENTS ON SEEDS!

Opposition against the patent on maize

Company KWS claims plants derived from conventional breeding

14 March 2023 / The international coalition of *No Patents on Seeds!* will today file an opposition against a patent held by the German company, KWS. Patent EP3560330 was granted in June 2022 by the European Patent Office (EPO), and claims maize with improved digestibility to be used primarily in animal feed production. The patent claims plants with randomly mutated genes as well as the harvest and the feed produced thereof. In addition, it claims as an invention the usage of naturally occurring genetic variations for conventional breeding.

"Patents on seeds threaten access to biodiversity and will put an end to the freedom of traditional plant breeding. Corporations holding these patents are endangering the foundations of food security in Europe," says Katherine Dolan from Arche Noah.



The patent set a legal precedent since it was the first one to be considered under a new European Patent Convention (EPC) rule – a rule which is intended to prevent patents on conventionally-bred plants and animals. Despite being granted under the new Rule 28(2), the patent is not limited to the field of genetic engineering, it also covers conventional breeding. The opposition has been filed to both clarify the legal situation and to stop these kinds of patents from being granted.

"Only technical inventions are patentable, but not genetic diversity or seeds from conventionally-bred plants! The patent office is violating its own legal basis by granting these patents on seeds," says Christoph Then for *No patents on seeds!*.

The EPO currently considers random genetic variations, e. g. those triggered by radiation from sunlight, to be technical inventions. However, there have recently been some clear indications that EPO legal practice needs correcting: for example, the German Plant Breeders Association (BDP) spoke out against patents on naturally occurring genetic variants. In Austria, national patent law will be amended to stop random mutations from being claimed as technical inventions. *No Patents on Seeds!* is demanding that the EPO Administrative Council, which includes experts from 39 member states, ensures that patent law is interpreted correctly.

If patents on conventional breeding are not stopped, *No Patents on Seeds!* warns that conventional breeding will be faced with 'lockdown'. Until now, conventional plant breeders have been free to use all varieties on the market to breed and market even better varieties. This freedom for breeders allows a wide variety of new plant varieties to be developed. In future, breeders will need a license from patent holders.

"Small- and medium-sized breeders in agriculture will face new dependencies and encounter considerable legal uncertainty and costs. Only the large corporations will be able to survive in such conditions, and they will be the ones to decide what is grown and harvested. This would significantly impact farmers both in Europe and the countries of the Global South," says Nout van der Vaart from Oxfam Novib.

If the appeal against the maize patent is successful, it would be a milestone for future plant breeding. In addition, *No Patents on Seeds!* is also calling for policymakers to take urgent action to enforce the prohibition of patents on conventional breeding and preserve the freedom of traditional breeding.

Contact

- Katherine Dolan, head of policy, ARCHE NOAH, katherine.dolan@arche-noah.at, +43 676 557 4408
- Nout van der Vart, Policy Lead Food and Land, Oxfam (Novib), nout.vandervaart@oxfamnovib.nl
- Christoph Then, spokesperson, *No Patents on Seeds!*, info@no-patents-on-seeds.org, +49 151 54638040

Further information

- Infos about the maize patent on the *No Patents on Seeds!* homepage: https://www.no-patents-on-seeds.org/en/patents/maize

- Photos from a demonstration against KWS patents in December 2022: https://www.no-patents-on-seeds.org/en/activities/kws

- The German Plant Breeders Association position (in German): https://www.bdp-online.de/de/Branche/Patentschutz/BDP_Position_Patentschutz.pdf

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