NO PATENTS ON SEEDS!

26 May 2020 Conference call NPOS

Minutes

Participants

1. Erling Frederiksen / Danish Seed Savers
2. Gudula Madsen / GeN
3. Bram de Jonge / Oxfam
4. Fulya Batur
5. Martha Mertens / FOE Germany
6. Katherine Dolan / ARCHE NOAH
7. Francois (joined a bit later) / ProSpecieRara
8. Katharina Zimmermann (intern ARCHE NOAH / NPOS)
9. Ruth Tippe / No patents on life
10. Anne-Charlotte Moy / No patents on seeds!
11. Christoph Then / No patents on seeds!
12. Johanna Eckhardt / No patents on seeds!

excused

- Judith Reusser / SWISSAID
- Nina Holland / CEO

Chair: Christoph
Minutes: Johanna

1. Updates

1.1. Updates from the countries / organisations

- No updates

1.2. The decision G3 / 19 and our position

Christoph: In regards to random mutagenesis I proposed a wording via email that we should agree on:

- "Our position: In patent world [patent law], 'random' mutagenesis (using physico-chemical mutagens) is a 'conventional' or 'essentially biological' method (which always requires further crossing and selection to establish a sufficiently defined breeding characteristic or 'trait') and therefore it is not patentable."
- We agree on this definition.

- **We discussed**
  - which terms to use in our communication ('essentially biological' / 'conventional' / 'physico-chemical'),
  - random mutagenesis and patentability and what G1/08 says about it,

- whether or not G3/19 is in contradiction with G1/08 (and G2/07) and
- the options of what we could now demand from the Administrative Council and what the risks might be.

Conclusion:
We agreed that we want to ask the AC to bring the Preparatory Document drafted by the former president of the EPO that lead to the decision in the Administrative Council in June 2017 (Rule 28 (2)) in line with G3/19, that is draft a document that clarifies and interprets the G3/19 decision in context to the Preparatory Document. It is a standard procedure, that the AC comments on a new decision from the Enlarged Board of Appeal. They would state something like: "We changed Rule 28 (2) in 2017, then it was challenged, then G3/19 was published. This is how we understand the process: ..."

We agreed that we would test our argumentation (as laid out in our letter) by sending it to the board of the Administrative Council and to the German Ministry, which was very interested in further exchange. Based on their comments we will then move forward.

The preparatory meeting of the AC is already on 28 May. The AC meets on 30 June / 1 July (in Munich).

[Update after the meeting: The letters have been sent out to the AC and the German Ministry. AC asked us to send the letter to the Patent Law Committee.]

2. How to go on?

2.1. 2.1. EPO-level

- see above

2.2. 2.2. national level

- Not discussed.

3. Organisation: short update on budget, board members, membership applications

- We postponed this issue for another conference call.

4. Fix next conference call

- Next conference call in 2 weeks. Johanna sent out a doodle.