NO PATENTS ON SEEDS!

2020-09-22 Conference call NPOS

Minutes

Participants

1. Erling Frederiksen / Danish Seed Savers
2. Fulya Batur
3. Martha Mertens / FOE Germany
4. Katherine Dolan / ARCHE NOAH
5. Ruth Tippe / No patents on life
6. Anne-Charlotte Moy / No patents on seeds!
7. Christoph Then / No patents on seeds!
8. Johanna Eckhardt / No patents on seeds!

excused

- Bram, François, Nina

Chair: Christoph
Minutes: Johanna

1. Updates

1.1. Germany

- **Christoph**: A report from the Ministry of Agriculture on bio-patents granted/applied at the EPO and in Germany has been published. It is not very well researched, some interesting points that Christoph and Ruth will have a closer look on. They are still against patents on essentially biological plants and animals. No interesting examples for us in the report, because the time period was during the staying of procedures at the EPO. It did not get a lot of attention, it has been briefly discussed in the German Parliament. We can't use it for public communication, but we can address it when in contact with German experts or the ministry.
- An answer from the Ministry of Justice to our letter is expected soon, they are working on it.

1.2. Austria

- **Katherine**: We had 2 meetings with the Austrian patent office. One on a political level in August in Vienna with Christoph, the president of the Patent office, the head of the cabinet of the Environmental Ministry. It was the first meeting since we have the Green minister. They said that it would be better to raise the issue in the Patent Law Committee instead of the Admin. Council. They could present a proposal at the PLC. But is important that other contracting states share their position and would support them in the PLC. The ministry raised the option that they could talk to other governments where the Greens are in power.
- They will have to change the national law when the UPC comes into force, probably end of 2021. Then they could look at our proposals. But there is a lot of resistance from the industry side. ARCHE NOAH will start a little campaign around changing the national law. The change of national law most probably will become relevant in other countries, too.

- Then we had a technical discussion with the technical experts of the Austrian Patent Office via Skype. All in all, they didn't find anything to disagree with our arguments, but they were still a bit hesitant. They agree that random mutagenesis should be excluded from patentability. But one of the experts did not see a contradiction between the G1/08 decision and the preparatory document of the president in regards to rule 28 (2). G1/08 does not explicitly say that mutagenesis is excluded from patentability. It was a good discussion, good to get feedback from experts. We know now that our arguments work and that we can take them to other member states.
- We should still keep the political work up. The environmental ministry is completely overwhelmed. It would help us to have good media reports around the melon case. And to have more contact with the member states.

2. Strategy / Next steps

- **Fulya**: Our patent workshop will be for the Benelux countries around end of October 2020. We already have a list of people we want to contact (organic movement, patent experts – probably Christoph, maybe breeders – might be tricky, seed savers, civil society), I coordinate with Bram. The goal is to have meetings with the authorities or to start a campaign. There will be 2 webinars, one more technical (what is a patent, what is the problem, the report from NPOS), the second one will be on the preparation of a campaign.

2.1. meeting with EPO

- We will ask for another meeting with the EPO to discuss next steps.

2.2. contact further member states

- **Christoph**: We should not discuss arguments anymore, but start to contact the contracting states, get more interest, ask for online meetings. This will be the focus of the work of Christoph and Johanna in the next couple of weeks. Other member organisations could get involved and try to organise meetings.
- Switzerland, Netherlands, Denmark, Portugal, Slovenia, etc.
- Christoph, Johanna, Katherine will start a working group on lobbying

2.3. activity at the melon hearing and meeting of the Administrative Council

- **Christoph**: I proposed to create 'screaming vegetables'. These are man sized 'masks/shields' representing screaming broccoli and tomato (inspired by the painting "Der Schrei / The Scream" by Edvard Munch"). Additionally, we can have banners with our message. We can use that in different countries and on different occasions this and next year, maybe at the melon hearing (in Haar outside of Munich, not ideal) or at the hearing of the Admin. Council meeting.
- See a first draft in the picture on the right from the document "draft npos 2021_2" as prepared by Christoph sent via Proton (by Johanna, on 7 September 2020, Subject 'Planning 2021 for Conference call 10 September')
- Christoph is in contact with Greenpeace to ask them if they can produce those masks and will then send visuals and a proposal.
- This is a rare opportunity to get media attention.



Upcoming Dates:

- 13/14 October 2020: EPO Administrative Council in Munich
- 10/11 November 2020: EPO Committee on Patent Law in Munich
- 12 November 2020: Melon hearing in Haar
- 15/16 December 2020: EPO Administrative Council in Munich

3. Melon patent case (legal aspects)

- **Christoph**: From a legal perspective this is not a key case for us. I think we can win this case. Our main arguments were Article 53b and rule 28 (2). Because of the transition period rule 28 (2) can now not be applied.
- But the EPO raised concerns because the melon was not deposited under the Budapest treaty, but at an US gene bank (reproducibility, Article 83). That is probably reason enough to kill the patent.
- Christoph is in contact with patent lawyers and will draft a letter to the EPO.
- Another point will be Article 53a and biopiracy. It is not relevant so much as a legal argument, but for public communication. Vandana Shiva participated in the last opposition. ARCHE NOAH will contact Vandana Shiva, maybe invite her to a joined online press conference or ask her for a statement and pictures. Johanna will ask Carla for the contact to the Indian government.

4. Planning and budget

- **Christoph**: We will not get a final decision this year, but maybe next year. We will publish a report, continue the patent research, there won't be new oppositions, maybe a hearing on Carlsberg or pepper. And we could as well use next year to talk about the next steps/further goals and if/how we want to continue to cooperate.

4.1. Short update about Budget 2019 / 2020

4.2. Planning and Budget 2021

- See document "draft npos 2021_2" as prepared by Christoph sent via Proton (by Johanna, on 7 September 2020, Subject 'Planning 2021 for Conference call 10 September').

5. Other

5.1. Approximate date for Meeting of Members 2021

- We will plan for a Meeting of Members in March/April 2021, when the financial accounts of 2020 are closed. We will evaluate at the beginning of 2021 if we might hold the meeting online due to Corona.

5.2. Next conference call

- Next conference call will be end of October / beginning of November. We plan for an English and a German conference call.