Europäische Patent-organisation
European Patent Organisation
Organisation européenne des brevets

Verwaltungsrat
Administrative Council
Conseil d'administration

Der Präsident
The Chairman
Le Président

EPA/EPO/OEB – D-80298 München

Dr Christoph Then
No Patents on Seeds!

BY EMAIL ONLY

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Your communication material handed over to the EPO on 22 March 2021

Dear Dr Then,

Thank you very much for providing the European Patent Organisation with the above-mentioned communication material.

The European Patent Office (EPO) is tasked with the examination of patent applications in all fields of technology, including biotechnology, in a procedure laid down in the European Patent Convention (EPC), a treaty signed by the 38 EPO member states.

The EPO also follows the EU Biotechnology Directive adopted by the European Parliament and the EU member states in 1998 which has been incorporated in the EPC.

These provisions, amongst other things, lay down that no patents shall be granted for plants and animals exclusively obtained by biological crossing, but allow patents on plants and animals obtained by technical processes.

In a ruling handed down in 2020, the highest instance of the EPO's independent judiciary, the Enlarged Board of Appeal of the EPO, created legal certainty on how the relevant provisions are to be applied by the EPO. The EPO strictly follows the rules laid down by the legislator and clarified by the independent judiciary when examining European patent applications related to plants or animals, also with regard to the principle that retroactive application of new provisions enacted in 2017 is not possible.

The EPO reports to the Administrative Council´s Committee on Patent Law regularly on the developments and patent activities in this sensitive area, thus allowing the Administrative Council to closely monitor the EPO's activities.

The Administrative Council understands and respects the opinion of civil society groups dissenting with the applicable legal framework. We know that also the EPO is in a fruitful dialogue with these groups. The last meeting took place some two weeks ago. In the future, the Observatory should also provide a good platform for exchanges and discussions on these sensitive topics.



Josef Kratochvíl
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