15-12-2021 Conference call NPOS

Minutes

Participants

1. Erling Frederiksen / Danish Seed Savers
2. Martha Mertens / FOE Germany (BUND, BN)
3. Dagmar Urban / ARCHE NOAH
4. Axel Grunt / ARCHE NOAH
5. François Meienberg / ProSpecieRara
6. Anne-Charlotte Moy / No patents on seeds!
7. Christoph Then / No patents on seeds!
8. Johanna Eckhardt / No patents on seeds!

Chair: Christoph
Minutes: Johanna

Agenda

1. Updates

1.1. from countries / member organisations

- **Christoph / Germany**: No updates from Germany, no contact to the new minister yet.
- **Erling / Denmark**: A Danish journalist was in contact with Christoph, but no article has been published yet. The journalist may contact Carlsberg, if not Erling will do so.
- **Dagmar / Austria:** We started the petition, it is very successful, more successful than petitions before, already 14.000 signatures, a lot of media reports. Good feedback from people who signed the petition. But a lot of critical feedback for our third demand ("Wir fordern: Um die bestehenden Verbote durchzusetzen, müssen Patente, die Pflanzen und Tiere betreffen, strikt auf gentechnische Verfahren begrenzt werden.") – they want us to get active as well against patens on genome editing.
- Good cooperation with the Austrian breweries. They will support the petition, they already started with political meetings, communications, etc. So we have strong partners.
- ARCHE NOAH organised a patent workshop for the EU-based organisations, Christoph made a presentation, about 10 organisations present, the Greens, IFOAM, Demeter, consumer organizations,... IFOAM was not aware of the discussion anymore, because of capacity reasons, Friends of the Earth would only join a campaign that is broader, against all patents on seeds.
- Fulya did an online workshop on the Unitary Patent for organisations.
- Christoph: Question for Fulya: Is it really true that all past EPO patents (not only future patents) will be transferred into the Unitary patent system and all patents will then be valid in the Unitary Patent System / in all countries?
- Dagmar: Yes, Fulya already double checked.
- **François / Switzerland**: Since we have this new minister, everything has changed. She is completely with the industry, with this minister it is really difficult to change something.

Maybe with the parliament. The change of law will be discussed at the beginning of February.

- Swiss group will most probably launch the petition at the beginning of next year.
- François sent a document from a past Patent Law Committee (CA/PL 3/21). We should try to get documents of current meetings via the "right to information act", f.e. via Germany where this worked very well in the past. → Johanna will check what documents can be found on the EPO website, Christoph will ask the EPO, then if needed follow up on right to information act in Germany.

2. Next steps

2.1. The petition

- Christoph together with Bram tries to get in contact with Plantum (biggest european breeders organisation) again, maybe as well with Copa/Cogeca
- Johanna: Christoph, Magdalena and I had a zoom meeting, where we informed the German private breweries about the beer patents and the campaign. Around 15 breweries were present, very interested, ready to get involved. Their communication agency already presented a plan for the campaign. They will set up a homepage around "free barley" (similar to the "free breweries"), where people can sign the petition. They will support the breweries so that they can all communicate on their channels about the petition. Sounds very promising.
- Johanna: On 12 January we'll have a zoom talk for partner organisations who may want to join the petition – to give them background info, see what they need to get active, support them to get active.
- Dagmar: We should communicate about the petition, say that we already have a broad coalition. → We can communicate with an update on how many organisations already joined, inform about the start of the campaign of the breweries, etc.

2.2. Current patent cases

2.2.1.Beer patents

- Currently still 2 valid patents. One patent has been finally revoked by the EPO. Further patent applications by Carlsberg.
- There is a new barley application by the Australian organisation that has as well the patent on salmon.

2.2.2.Bushy melon

- We filed the opposition in the bushy melon case. They are claiming plant varieties. It is always plant lines and they are not patentable. We should win the case.

2.2.3.Nunhems tomato patent

- Was granted in 2021. It shows that random mutagenesis is used and ODM/talen was mentioned. We could run an opposition or not, but it is a good example to show how genome editing is being used to patent something from conventional breeding. The deadline for the opposition is 10 August 2022.

2.2.4.Patent report 2021

- Only very few patents were granted in 2021 (melon patent and Nunhems tomato). But a lot of applications. We will have all the data on patents granted / applied at the end of the year.
- What questions shall be answered in our next report?
- The messaging of our report should be in line with the petition.
- We can publish the report around February.

3. Other

3.1. Meeting of members 2022

- We will still keep the question open if we'll have the meeting in Munich or online since most people can make travel arrangements quite flexibly.
- In addition to the Meeting of Members, we could aim for a physical meeting in June or September, when it should be easier with the pandemic. Maybe combine it with a hand-over of the petition / meeting of Administrative Council in June.
- What exactly should be discussed in our short term and long term strategy discussions? Discuss how to go on with our current strategy. Should we broaden our goals to no patents on all plants and animals?
- Organisations are asked to send their feedback on what they would like to discuss to Johanna until 23 January so that Christoph can prepare a document.

until 23 January:	organisations send feedback on what they would like to discuss to Johanna
until 31 January	Christoph presents background document for discussion
until 14 February:	Organisations send their written feedback to the discussion document to Johanna – in preparation for the meeting
17 February:	final documents for the meeting have to be sent out
3 March:	Meeting of Members

3.2. Explain and discuss

3.2.1. Annulment of patents on a national level

- The Austrian breweries were raising the idea of annulment of the Carlsberg patent on a national level. The patent is validated in AT, we are not sure about the status in DE yet.
- Christoph: We discussed this option several times in the last years. In Germany we could try to go via the national court to the ECJ. But we didn't find a suitable case. The Carlsberg case may be an option. There are some chances that we could win in front of the ECJ, but it is not clear.
- Christoph has some experience on how to approach it in Germany, has as well some lawyers.
- We should figure out how the process would be in AT, we would need a patent lawyer that can take us through all instances. Ask the breweries, if they already have more info.
- But our current strategy is to ask the ministries to take action. If a case would go to the ECJ, they would stop everything and wait for the decision. So we should finish our current campaign and then think about if an annulment on a national level might be an option. Maybe have it as a backup plan if we don't manage with the petition to get many member states active.

3.3. Patentability of Random mutagenesis, (French) discussion about genome editing

- Dagmar: Which patents are in-vitro which are not?
- Christoph: Carlsberg barley: kernels were brought in contact with chemicals, for me no in-vitro, with the new Nunhems tomato I am not sure yet.
- CT: Please keep the genome editing discussion and the patent discussion separated.

- We have the same goals, we want a strong GMO regulation, we don't want patents. But we disagree on the strategy
- Dagmar: It is difficult because, we work with many organisations on other issues. But we get a lot of back lash if we communicate on patents. – Since we are working on many issues, we can not say we are just talking about patents. A lot of effort goes into explaining that, we don't want to continue with that.
- And for the public it is not clear to make the separation between the two discussions.
- We should think about how we could communicate that better without making it too complicated or it taking up too much space.
- Christoph: But don't compromise on the arguments just to have no conflict within the NGO bubble. We cannot escape these discussions. In the end, our arguments have to be valid on a political / legal level to win this issue.

- François: If I have random mutagenesis that is caused by sunlight, it is not patentable, if it is done by UV radiation is it patentable?
- CT: It is said that human intervention is needed, that means UV radiation, but I am not aware of a case where this is used. But they mentioned it in the guidelines. – It is not clear. Why would it be patentable in the laboratory and not when it occurred in the field?
- Anne-Charlotte: It reads in the guidelines that UV radiation is considered as technical.

3.4. Disclaimer

- postponed to the next conference call

3.5. Next conference call

- beginning of February