

Online info talk



**Before a precedent:
Patent claiming
conventionally bred
maize**

4.11.2025

15:00-16:00 CET



Johanna Eckhardt, Project Coordination, NO PATENTS ON SEEDS!

johanna.eckhardt@no-patents-on-seeds.org

www.no-patents-on-seeds.org



NO PATENTS ON SEEDS!

- 2007: start of a European coalition
- Since 2018 Non profit organisation based in Munich
- 18 member organisations from Austria, Belgium, Denmark, Germany, the Netherlands, Portugal, Switzerland and the UK.





Safeguard the patent-free zone of classical plant breeding in Europe!



Safeguard the patent-free zone of classical plant breeding in Europe!

Patents granted by the European Patent Office put pressure on politics

Authors: Ruth Tippe, Anne-Charlotte Moy, Johanna Eckhardt, Andreas Bauer-Panskus & Christoph Then
Published by: No Patents on Seeds!

www.no-patents-on-seeds.org/en
September 2025

New report

English version:

<https://www.no-patents-on-seeds.org/en/report-2025>

German version:

<https://www.no-patents-on-seeds.org/de/bericht-2025>



European patents on classical breeding

between 2009 to 2024:

- around 1.500 **patent applications** on classical breeding at the European Patent Office
- around 340 patents on classical breeding **granted** by the European Patent Office

Pinto database by European Seed Association:

- lists 100 European patents on classical breeding affecting more than 1.000 plant varieties belonging to almost 40 species

www.no-patents-on-seeds.org/en/report-2025



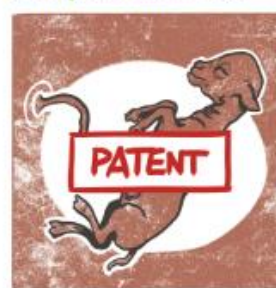
Bushy Melon



Pepper Plants (Mexico)



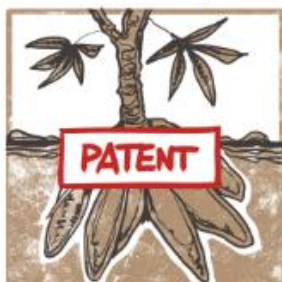
Embryos & Animals



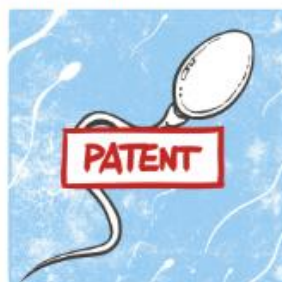
Basil



Cassava (Manioc)



Animal Sperm



Endive Plant



80 Plant Species



Salmon



Broccoli



Severed Broccoli



Pepper



Soybean



Tomato



Lettuce



Tomato (Jordan virus)



<https://www.no-patents-on-seeds.org/en/patent-cases>



More patents on classical breeding than on NGTs

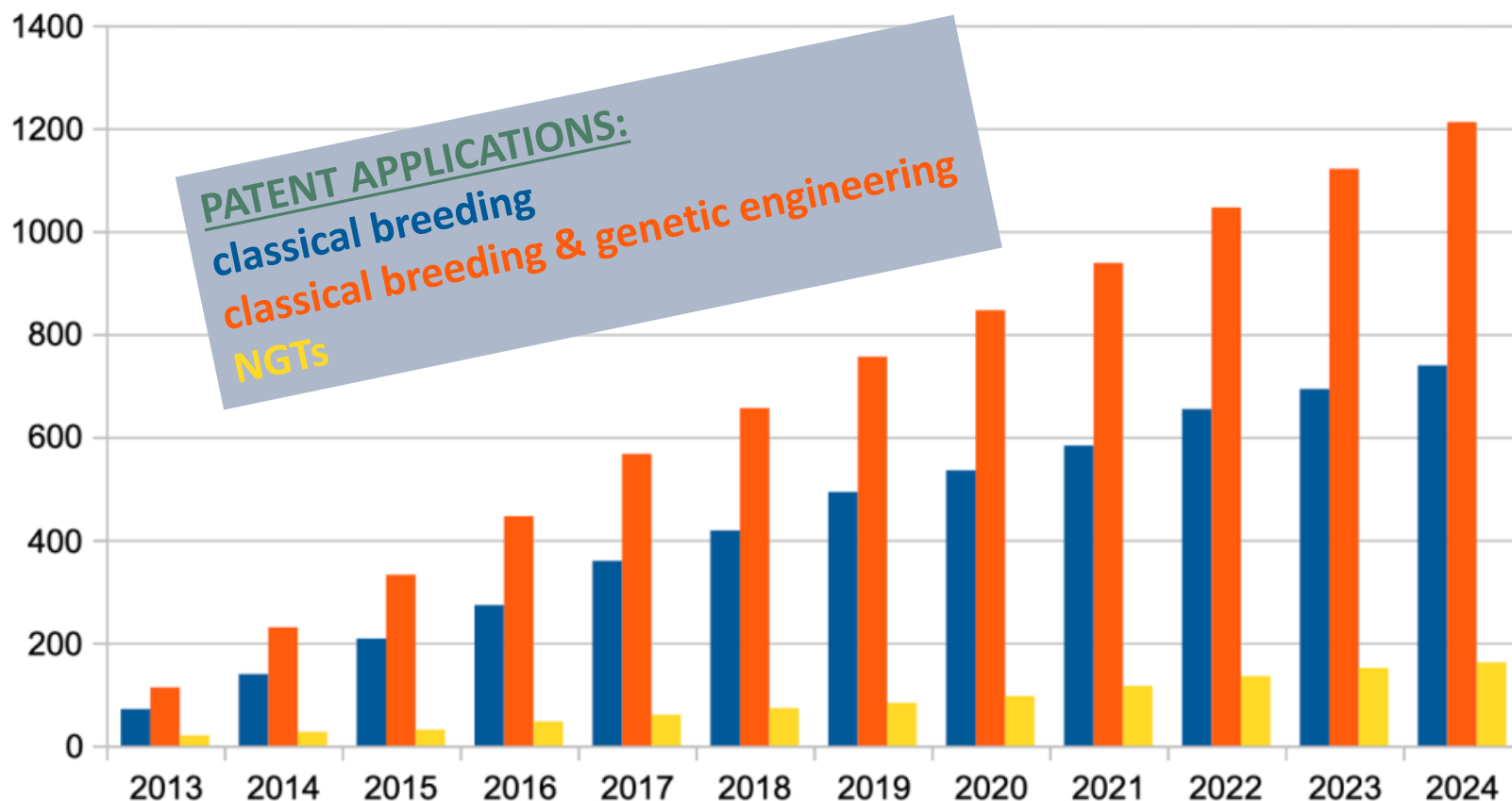


Figure 3: Number of patent applications on plants obtained from classical breeding (first column, blue) or patent applications that concern classical breeding and in addition also genetic engineering (second column, red) in comparison to patents filed on NGT plants (third column, yellow), accumulated from 2013-2024. All applications filed under PCT/WIPO. Research according to official classifications (IPC A01H or C12N15/82). Research conducted in Global Patent Index database. Source: www.kein-patent-auf-leben.de/patentdatenbank/ and further research of *No Patents on Seeds!*.



Legal background - EU

EU Biotech Directive 98/44/EC

„plant and animal varieties“ and „essentially biological processes for the production of plants and animals“ are excluded from patentability (Art. 4)

„A process for the production of plants or animals is essentially biological if it consists entirely of natural phenomena such as crossing or selection.“ (Art. 2)

<https://www.no-patents-on-seeds.org/en/background/legal-framework>

<https://www.no-patents-on-seeds.org/en/background/documents>



European Patent Organisation (EPOrg)

European Patent Office (EPO)

(executive)

Chair: President
(appointed by the AC)

Examines patent applications,
grants patents and deals with
oppositions against patents

Examining and
opposition divisions

Administrative Council (AC)

(legislative)

39 Member States

Supervises the Patent Office
and reviews the legislation of
the Convention

European Patent Convention (EPC)

Legal base of the EPOrg with its 39 Member States

Implementing Regulations

Rules for granting of patents

Guidelines for Examination

Details for granting of patents



Legal background - EPO

European Patent Convention, Article 53 (b)

European patents shall not be granted in respect of: [...] (b) plant or animal varieties or essentially biological processes for the production of plants or animals.

Implementing Regulations, Rule 26 (5)

A process for the production of plants or animals is essentially biological if it consists entirely of natural phenomena such as crossing or selection.

<https://www.no-patents-on-seeds.org/en/background/legal-framework>

<https://www.no-patents-on-seeds.org/en/background/documents>



More info



EU Parliament Resolutions

[European Parliament resolution of 19 September 2019 on the patentability of plants and essentially biological processes \(2019/2800\(RSP\)\)](#): Herein, the EU Parliament “reiterates that plant and animal varieties, including parts and traits, essentially biological processes as well as products emanating from such processes, shall not in any way be patentable, pursuant to Directive 98/44/EC and the EU legislator’s intention”.

[European Parliament resolution of 17 December 2015 on patents and plant breeders’ rights \(2015/2981\(RSP\)\)](#): Herein, the EU Parliament calls to “to clarify the scope and interpretation of Directive 98/44/EC [...] in order to ensure legal clarity regarding the prohibition of the patentability of products obtained from essentially biological processes, and to clarify that breeding with biological material falling under the scope of a patent is permitted”.

[European Parliament resolution of 10 May 2012 on the patenting of essential biological processes \(2012/2623\(RSP\)\)](#): Herein, the EU Parliament clarifies that the term “essentially biological processes” is used in the EU Biopatent Directive and in the European Patent Convention to exclude such processes from patentability.



EU Commission Notice 2016

Commission Notice on certain articles of Directive 98/44/EC of the European Parliament and of the Council on the legal protection of biotechnological inventions (2016/C 411/03): In this Notice, the European Commission declares that the EU legislator's intention when adopting the EU Biopatent Directive “was to exclude from patentability products (plants/animals and plant/animal parts) that are obtained by means of essentially biological processes”.



Rule 28 (2), Implementing Regulations

Introduced in 2017

“Under Article 53(b), European patents shall not be granted in respect of plants or animals exclusively obtained by means of an essentially biological process.”

<https://www.epo.org/en/legal/epc/2016/r28.html>



Proposal NGT regulation

- introduction of NGT could increase number of patents on seeds
- NGT patents include same traits as obtained from classical breeding



Proposal NGT regulation

EU Parliament

- ban patents on NGT plants, and also exclude plants obtained from classical methods of breeding such as random mutagenesis from patenting.
- Does excluding NGT plants from patentability fall within the scope of EU responsibilities? European Patent Convention could become an obstacle.



Proposal NGT regulation

EU Commission & Council of Member States

- many don't follow the approach of EU Parliament
- no restrictions in patent law, but improve transparency in order to help breeders contact patent holders to negotiate licenses ⇒ high costs and far-reaching dependencies



Proposal NGT regulation

„white paper“ & position paper Germany

- legal study on patents on seeds commissioned by German Greens: introduce full breeders' exemption into patent law
- supported by joint statement of German breeders' organization (BDP), the biggest German farmers organization (DBV) and several civil society organizations – they also call for prohibition of patents on plants from random mutagenesis and certain NGT plants
- ⇒ why allow patents and then introduce many exemptions to mitigate negative effects?



Proposal NGT regulation

Summary - Current positions in the debate

1. exclude patents on plants obtained from classical breeding (including random mutagenesis);
2. exclude patents on plants obtained from classical breeding (including random mutagenesis) and certain NGT plants
3. mitigate the effects of all patents on seeds by introducing a full breeders' exemption into patent law
4. increase transparency in regard to granted patents and the affected varieties on the market.



Solution

Clarification of
EU Biotech Directive 98 /44 &
Implementing Regulations (EPC)

Online workshop about seed patents



Seed patent granted
on a natural trait –
what the EU should do
now



16.10.2025
15:00-16:30 CEST



Recording: <https://www.no-patents-on-seeds.org/en/workshop>



Thank you!

