



International patent applications on natural gene variants show alarming trend

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The current practice of the EPO is undermining EU decisions

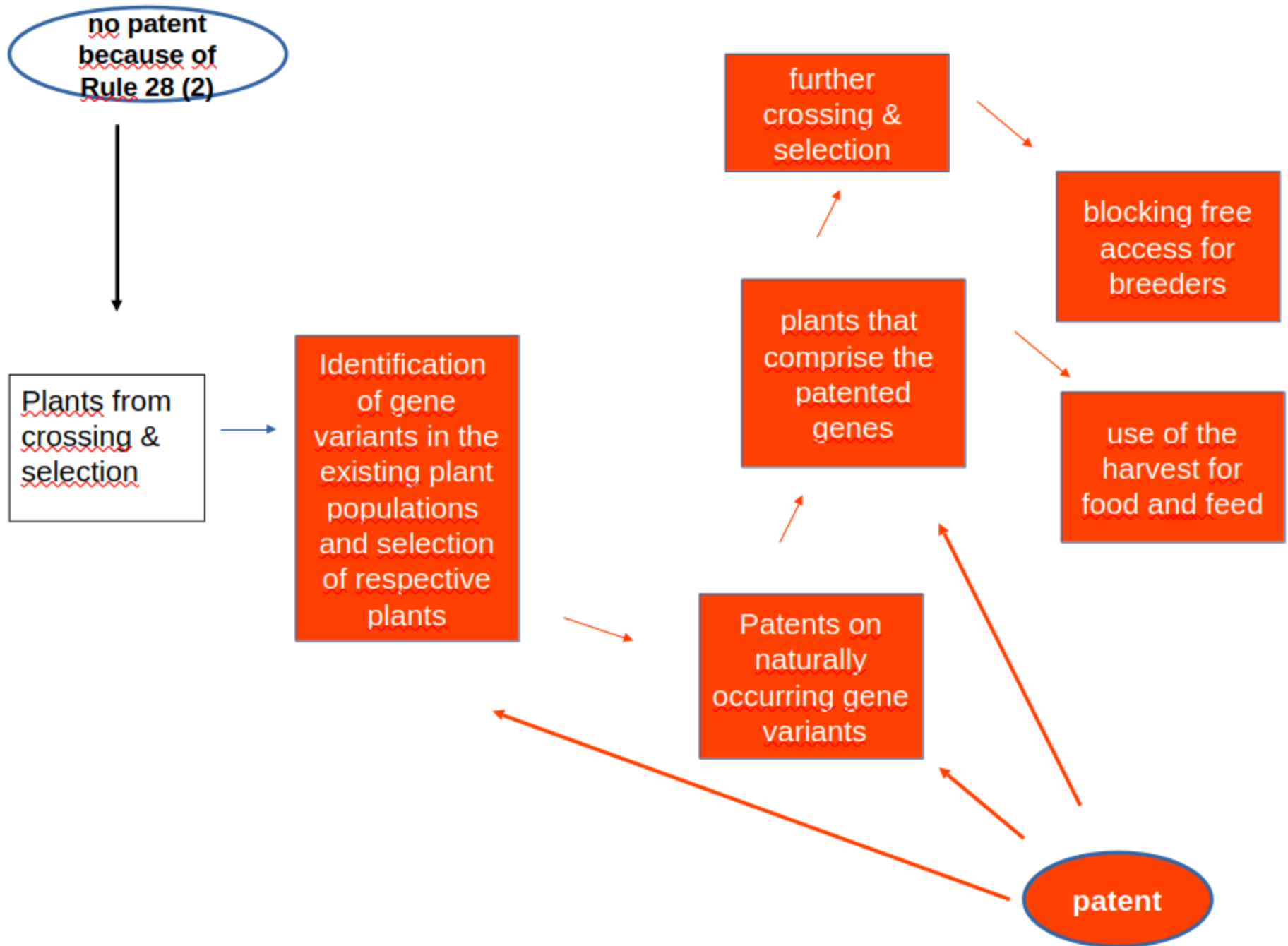
In 2017, the new Rule 28 (2) was incorporated into the European Patent Convention (EPC) on the initiative of the EU.

It prohibits patents on plants and animals obtained from “essentially biological processes” such as crossing and selection.

However, the European Patent Office (EPO) still grants patents on conventional breeding: if genes of interest for plant breeding are discovered and sequenced, the EPO considers this to be a technical invention. The scope of these patents also includes plants inheriting these naturally occurring gene variants.

Overview of patents granted on food plants under Rule 28 (2) IR, claiming plants from crossing and selection

Number, Company, date of grant	Content of the patent
EP3560330 <u>KWS</u> 15.06.2022	Maize with improved digestibility was obtained through crossing and selection from existing breeding populations. Natural gene variants were used as a tool for the selection of plants ('marker genes').
EP3911147 <u>Enza Zaden</u> 16.07.2025	Tomatoes with resistance to a plant virus (<u>TBRFV</u>). The plants are obtained from crossings and selection with a wild tomato species.
EP3975697 <u>Bejo Zaden</u> 24.09.2025	Spinach with resistance to downy mildew. The plants are obtained from crossings and selection with a wild spinach species.
EP3797582 <u>Seminis</u> 17.12.2025	Lettuce with resistance to aphids. The plants are obtained from crossings and selection with a related species.
EP3720272 <u>Rijk Zwaan</u> 11.02.2026	Tomatoes with resistance to a plant virus (<u>TBRFV</u>). The plants are obtained from crossings and selection with a wild tomato species.
EP3797582 <u>Enza Zaden</u> 18.02.2026	Lettuce with resistance to downy mildew. The plants are obtained from crossings and selection with a related species.



Recent research on international patent applications

Around 40 international patent applications that explicitly target conventionally bred food plants were published in 2025. Most of these patent applications are claiming naturally occurring gene variants (and respective plants) as technical inventions. A huge majority are targeting an improved resistance to pathogens causing fungal or virus diseases.

Recent research on international patent applications

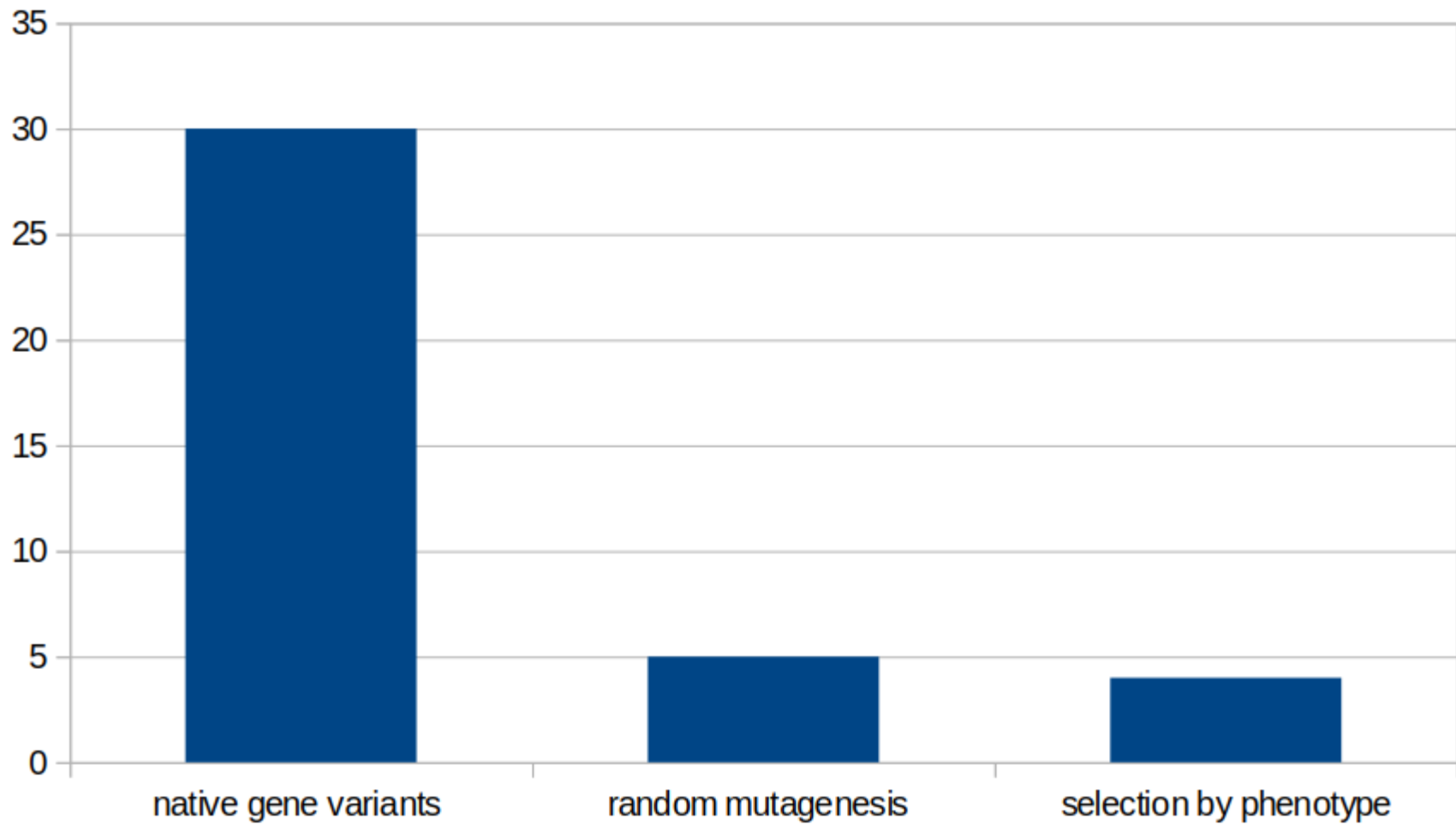
3/4 of the patent applications concern naturally occurring gene variants.

2/3 of the applications are targeting pathogen resistance.

16 important food plants species such as broccoli, tomatoes and maize are claimed.

19 different companies were filing these patents, including big ones such as Bayer, Corteva, Syngenta, BASF, KWS, Vilmorin and Rijk Zwaan.

Recent research on international patent applications



The political decisions taken by the EU are not yet effective

The existing prohibitions imposed by the EU are insufficient to stop the monopolisation of natural genetic resources and conventional plant breeding.

Despite the prohibition on the patenting of plants obtained through “essentially biological processes” (Rule 28 (2)), naturally occurring plant genes and plants selected thereof continue to be patented as inventions.

Time to make the necessary decisions!

The European Parliament has a chance to end the ongoing monopolisation of natural resources.

If the current NGT file is adopted, NGTs will become a main driver for an increasing number of seed patents. These patents cover both, genetically engineered plants as well as traditional breeding.

Therefore, if the problem with seed patents is not solved by the new regulation, it should be rejected.

There are also several amendments that are useful in this context.

Crucial amendments recommended

Amendment 1 + 2	<i>The European Parliament rejects the Council position at first reading.</i>
Amendments 6 + 10 (Recitals)	<i>(18a) The European Parliament has called for the Union and its Member States not to grant patents on biological material and to safeguard the freedom to operate and the breeders' exemption for varieties. (...)</i>
Amendment 13 (Recitals) I	<i>(65a) Patent protection should not extend to plant traits, genetic characteristics or biological material that occur in nature or that can be obtained through essentially biological processes, including conventional breeding methods such as crossing and selection. (...)</i>

Crucial amendments recommended

Amendments 33 + 34 + 36 (Articles)	<p>(...)</p> <p><i>1c. The protection conferred by a patent on a technical process that enables the production of a product containing or consisting of genetic information shall not extend to plant material (...) which is not distinguishable from plant material obtained or which can be obtained by an essentially biological process.'</i></p> <p>(...)</p>
Amendment 35 (Articles)	<p>(...)</p> <p><i>(bb) plants, plant material, parts thereof, genetic information and process features they contain that can be yielded by techniques excluded from the scope of Directive 2001/18/EC as listed in Annex I B to that directive.'</i></p> <p>(...)</p>

Members of Parliament, take your chance!

Stop patents on Seeds!

NOW.