



No patents on seeds!

Annual report on activities 2022

The organisation

No Patents on Seeds! (Keine Patente auf Saatgut e.V.) is a non-profit organisation founded in 2018 and registered in Germany. It continues to organise activities against patents on seeds similar to those of the previous international coalition.

Please see statutes at: <https://www.no-patents-on-seeds.org/en/about-us/statutes>.

The members of the organisation in 2022 were: Arbeitsgemeinschaft bäuerliche Landwirtschaft (AbL), ARCHE NOAH, Biorespect, Bund Naturschutz in Bayern (BN), Corporate Europe Observatory, Dachverband Kulturpflanzen- und Nutztiervielfalt e.V., Danish Seed Savers, Gene-ethical network (GeN), IG Nachbau, Kein Patent auf Leben!, Munich Environmental Institute, Oxfam, Plataforma Transgénicos Fora, ProSpecieRara, Public Eye and SWISSAID (<https://www.no-patents-on-seeds.org/en/about-us/member-organisations>).

EU Transparency Register TR ID: 562793946026-60

The team

Dr Christoph Then is the executive director of the organisation. Mag. Johanna Eckhardt coordinates public outreach (responsibility for the website, social media, organisation of media releases, newsletters) and contact to experts in EPO member states. Johanna is based in Vienna and is supported through the infrastructure of the ARCHE NOAH organisation. Dr Ruth Tippe, Anne-Charlotte Moy (LLM) and Andreas Bauer-Panskus conduct ongoing patent research and are organising a database to include relevant patents.

The initial situation

The Administrative Council of the European Patent Office (EPO) decided in 2017 that patents could no longer be granted on plants and animals derived from “essentially biological processes” of breeding. New Rule 28(2) was subsequently added to the Implementing Regulations of the European Patent Convention (EPC). This was an important success for the previous international coalition of *No Patents on Seeds!*.

However, this decision does not go far enough in completely excluding patents on plants and animals derived from conventional breeding. Although the Enlarged Board of Appeal of the EPO confirmed the validity of the new Rule 28 (2), the definition of “essentially biological processes” remains problematic. The Enlarged Board of Appeal also introduced a new cut-off date rule, although this only applies to patents filed on or after 1 July 2017. Consequently, hundreds of patents on conventional breeding may still be granted. It may, in addition, take over 10 years for the EPO to develop case law.

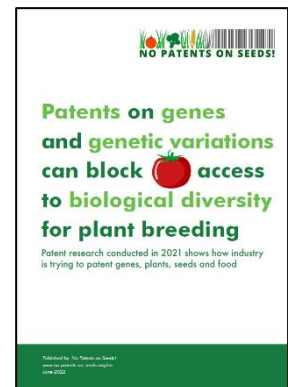
Activities

The most important activities of *No Patents on Seeds!* in 2022 were:

- **Patent research and publication of a report on current patent applications**

We researched and evaluated patent applications filed for plants and animals at the EPO in 2021. These were then divided into categories. We identified, in particular, patent applications covering both genetic engineering and conventional breeding. Specifically, we identified patent applications describing gene sequences and their use for any type of breeding or genetic engineering process. We also examined the first patent to be granted to a company (KWS) filed in 2018, i.e. after the July 2017 deadline. Our focus was further centred on patent applications covering resistance to 'Jordan virus' in tomatoes. The subsequent report on current patent applications was, amongst others, presented in online workshops to experts based in EPO member states and to members of the EU parliament. It may have also influenced a statement made by the German Plant Breeders Association (BdP) in January 2023, in which they call for a ban on the patenting of naturally occurring biological material.

The report: <https://www.no-patents-on-seeds.org/en/report2022>



- **Handover of around 250.000 signatures**

A petition calling for an international conference of ministers from the contracting states of the EPO collected around 250.000 signatures. The petition was jointly organised with WeMove and was presented to the Ministry of Justice in Berlin in November. It was also handed over to the Swiss government and brought to the attention of the Administrative Council of the EPO in December.

More info: <https://www.no-patents-on-seeds.org/en/petition>



- **Further hearing on the malting barley patent and the 'severed broccoli' patent**

An online hearing on the opposition to Carlsberg's third patent was held in May 2022. The opposition was rejected and an appeal was filed against this decision. New legal argumentation was subsequently developed to clarify that the exceptions to the prohibitions in Art 53 (b) may only be applied to genetically modified plants (<https://www.no-patents-on-seeds.org/en/patent-cases/beer>). Monsanto / Bayer withdrew its appeal against the revocation of the patent on 'severed broccoli' (EP1597965). The patent has, therefore, finally been revoked.

- **Demonstration against the KWS maize patent**

Together with the AbL, a protest against patent EP 3560330 was held outside the building where the KWS shareholder meeting took place. KWS stated in speeches at the meeting that they had recognized the problem and would cooperate in finding a solution. However, an inquiry held in February 2023 did not produce any evidence of significant progress.



photo: Falk Heller

- **Income and expenses**

The development of income and expenses was approximately as planned. New applications were successfully submitted to Salvia and the Gene-ethical foundation for 2023.