

no patents on seeds

Media Release

Stop the EU Unitary Patent!

New EU Patent Court in conflict with public interest

Munich/ Brussels, 26 November 2012. On 14 November the Council of European Union presented a new *Draft Agreement on a Unified Patent Court*. This agreement is part of a legal package to establish an *EU Unitary Patent* which aims to accelerate the granting of patents within the EU. The European Parliament is supposed to adopt this draft until 10th of December 2012. The international coalition of *No Patents on Seeds!* is raising the alarm about the consequences of the planned new *EU Unified Patent Court* for three reasons:

- the decisions of the new court will escape the control of European Court of Justice;
- high costs for legal procedures are likely to prevent non-profit organisations from running legal oppositions in front of the new court;
- meaningful national limitations of the effects of patents will be prohibited.

“A broad public discussion should be expected in the light of the new proposal. Instead enormous pressure is being put on the European Parliament to adopt this Unified Patent Court in a fast track procedure. We are very much concerned that this agreement will only serve those who have an economic interest in patents while ignoring the general public. No Patents on Seeds demands that the Draft Agreement be rejected. ”

The new proposal came about because the UK government rejected a compromise that had already been agreed amongst Council, Commission and Parliament. In a meeting of Member States on 18 October 2012, the UK delegation explained their strategy. According to the protocol that was brought to the attention of *No Patents on Seeds!*, the UK Government explained that *stakeholders with economic interests from the UK as well as Business Europe wanted to avoid involving the ECJ in the interpretation of European patent law in any case.* (unofficial translation from the protocol in German.)

Indeed, the draft agreement more or less excludes the ECJ from the jurisdiction on the EU patents. There is no possibility to bring any appeal to the ECJ concerning the decisions of the *Unified Patent Court*.

Further, contrary to the provisions of the European Patent Office (EPO), non-profit organisations and individuals can not represent themselves in opposition cases in the new patent court but have to hire a patent attorney in each case. This will dramatically increase costs. Further – also contrary to the provisions of the EPO - the costs of the winning party have to be borne by those that are not successful. As a result, civil society organisations will be prevented from running oppositions against unlawful patents on behalf of the public interest.

Special national provisions that put meaningful limitations to the legal effects of patents will no longer be possible. Several member states have provisions that restrict the effects of patents on human gene sequences, some have particular ethical clauses and several national legal provisions are there to protect the interests of farmers and breeders. The *Draft Agreement* only provides a limited breeders' exemption for the breeding of plants that does not enable a breeder to sell his own

seeds independently from any patent holder. Also, according to the *Draft Agreement*, a farmer could no longer sell his animals for breeding purposes without consent from patent holders. No Patents on Seeds is warning that the proposed agreement will stir further controversies about patents on life and the Unitary Patent will be the subject of a public demonstration that will take place in Munich on 30 of November 2012.

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Briefing from No Patents on Seeds! on the Unified EU Patent Court:

<http://www.no-patents-on-seeds.org/en/information/background/critical-analysis-draft-agreement-unified-patent-court>

The proposal of the EU Council:

<http://www.no-patents-on-seeds.org/en/information/background/council-european-union>