

REVOKE!! Monsanto Monopoly Nixed in Munich *but little joy in foiling soy ploy at this late date*

Munich – The European Patent Office today put the brakes on Monsanto’s over-the-top corporate greed by revoking its species-wide patent on all genetically modified soybeans (EP0301749) – a patent unprecedented in its broad scope. ETC Group, an international civil society organization based in Canada, won its 13-year legal challenge against Monsanto’s species-wide soybean patent when an EPO appeal board ruled that the patent was not new or sufficient (i.e., the invention claimed was not sufficiently described for a skilled person to repeat it). The patent challenge was supported by Greenpeace and “No Patents on Life!” Dr. Ricarda Steinbrecher of UK-based EcoNexus also joined the opposition team in Munich as a scientific expert.

The patent was vigorously and formally opposed by Monsanto itself until the company purchased the original patent assignee (Agracetus) in 1996. The technology related to the now-revoked patent has been used, along with other patents in the company’s portfolio, to corner 90% of the world’s GM soybean market. [For more information, see ETC Group News Release, “Monsanto’s Soybean Monopoly Challenged in Munich,” April 30, 2007 http://www.etcgroup.org/en/materials/publications.html?pub_id=616]

“It’s shameful that it took the European Patent office 13 years to kill Monsanto’s immoral patent, which was ultimately revoked on technical grounds. Though we’re relieved that the species-wide patent on all genetically modified soybeans – both seeds and plants – was not allowed to stand, the delay of more than a decade demonstrates just how broken the patent system is. The patent had barely a year to go before expiring!” said Hope Shand, who represented ETC Group in Munich today.

“It was particularly satisfying,” said Shand, “that Monsanto’s own blistering 1994 arguments against the patent were ultimately key in defeating it.” One of Monsanto’s top scientists testified in 1994 that the genetic engineering process described in the patent was insufficient to allow a skilled scientist to replicate the procedure – a necessary criterion for patentability.

ETC Group, which first challenged the patent in 1994 (as RAFI), was represented in Munich by UK barrister Daniel Alexander and patent attorney Tim Roberts of Brookes Batchellor, LLP.

According to patent attorney Tim Roberts, “It is very satisfying that the European Appeal Board has completely revoked this patent. This decision sends a message to greedy patentees – don’t claim more than you are entitled to.”

Patent expert Dr. Christoph Then of Greenpeace commented on the outcome of today’s hearing, “The EPO’s decision to throw out the patent will have implications for Monsanto

and the EPO. It is now shown that the Patent Office is granting patents covering broad sectors of agricultural diversity with no real invention to back them up,” said Then.

Ruth Tippe from the European-wide initiative, “No Patents on Life!” asserts, “This is an important step against patents on seeds because it shows that civil society will keep on fighting and can ultimately succeed against powerful multinationals.”

According to Dr. Ricarda Steinbrecher of EcoNexus, “Monsanto’s patent couldn’t even survive on its scientific merits. It was a thoroughly bad patent – from both a technical and moral perspective.”

Multinational firm Syngenta also made oral arguments today opposing the patent. While their technical expertise may have contributed to the patent’s ultimate downfall, their opposition is viewed by civil society as cynical. In January 2005, ETC Group reported on three Syngenta patent applications that also make breathtakingly broad claims – multi-genome patents with claims on gene sequences that extend to 40 plant species. Despite assurances from Syngenta that the company would let the patents lapse, all three applications appear to be active still at the World Intellectual Property Organization (WIPO). [See ETC Group Communiqué, “Syngenta – The Genome Giant?” January/February 2005
<http://www.etcgroup.org/en/materials/publications.html?id=73>]

This isn’t ETC Group’s first successful battle against species-wide patents. Most notably, another Agracetus patent – this one granted by the US Patent and Trademark Office in 1992 and claiming all genetically engineered cotton varieties – was eventually revoked in India and the US in 1994.

Other overly broad, unjust patents have yet to be revoked, however. The formal challenge to the notorious “Enola Bean” patent, US Patent No. 5,894,079, granted on a yellow bean genetically identical to a pre-existing Mexican bean variety, has entered its seventh year. [See ETC Group Genotype, “Whatever Happened to the Enola Bean Patent Challenge?” 21 December 2005 <http://www.etcgroup.org/upload/publication/41/01/genotyphenola05.pdf>]

Note to editors: The final wording of today’s ruling by the EPO appeals board will not be released for several more weeks.

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