

A decorative graphic consisting of a series of horizontal lines. The top section has 10 red lines, followed by a gap, then 10 orange lines, followed by another gap, and finally 10 more orange lines at the bottom.

Symposium Finding the Balance

Exploring solutions in the debate surrounding patents and plant breeders' rights



Introduction by the Chair

Bart Kiewiet

A decorative graphic on the left side of the slide, consisting of two vertical columns of horizontal lines. The top column has 10 red lines, and the bottom column has 15 orange lines.

Opening Speech

Martijn van Dam,
Dutch Minister for Agriculture



Video from the sector: Syngenta



Introduction to patents, plant breeders' rights and the Biotech Directive

Prof.Dr. Axel Metzger LL.M.,
Humboldt University Berlin



Video from the sector:

Florist



Presentation of the outcome of the Expert Group

Dr. Sven Bostyn LLM, Chair of the Expert Group
on Biotechnological Inventions

Findings of the Expert Group on the development and implications of patent law in the field of biotechnology and genetic engineering

BRUSSELS, 18 MAY 2016

DR. SVEN J.R. BOSTYN, LL.M
CHAIR EXPERT GROUP

 S.BOSTYN@LIVERPOOL.AC.UK

Mandate

- The mandate was to provide the EC with legal and technical expertise in the area of biotechnological inventions
 - Covered not only plant related inventions, but also equally very important issues such as the patentability of human embryonic stem cells and the scope of protection of nucleic acid inventions.
 - On each of those subjects, separate Reports have been produced
- The mandate also aimed at advising the EC so that the recommendations drawn can assist the EC in its reporting duties under Article 16(c) of the Biotech Directive
- The present presentation will focus, in light of the Conference theme, on the Report dealing with plant related inventions

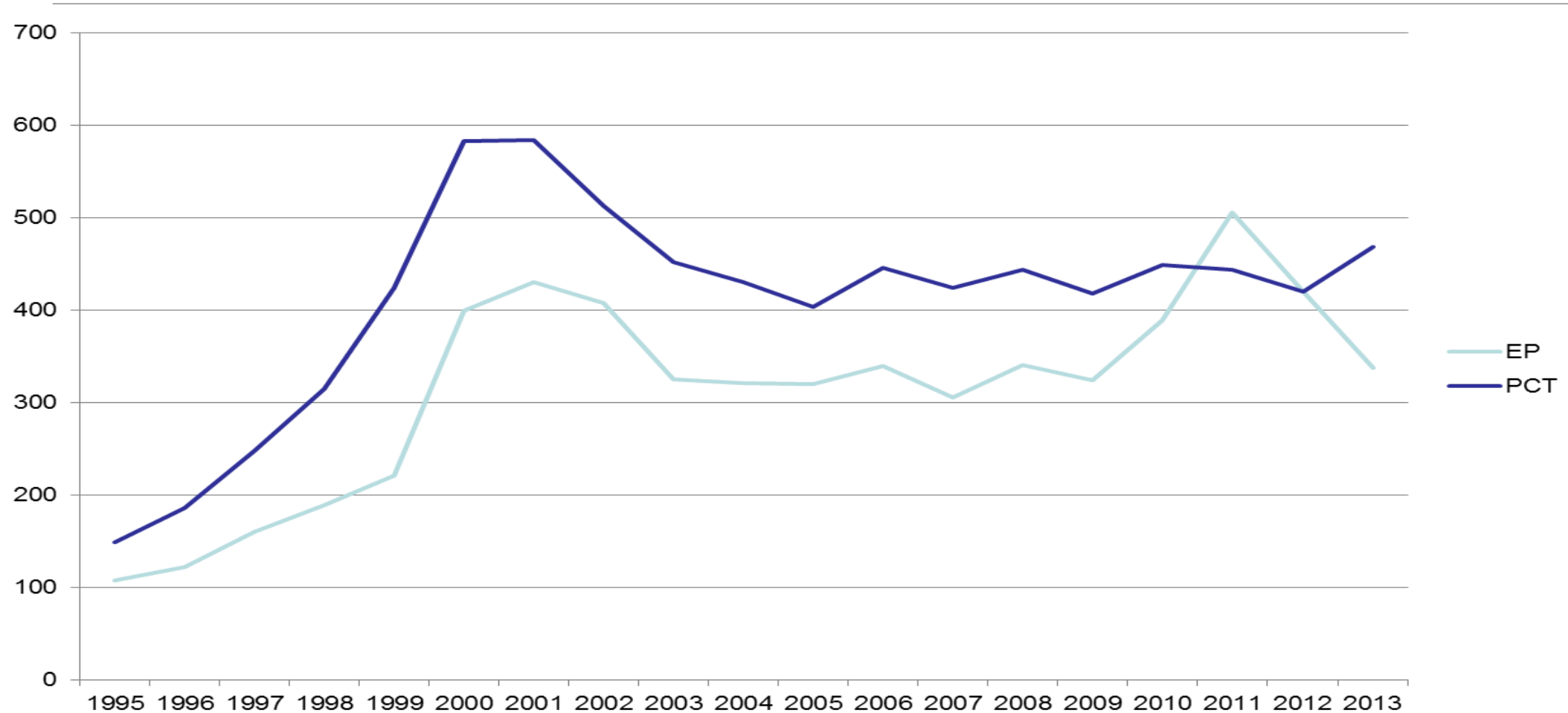
Issues identified

- Scope of essentially biological processes
- Patentability of products obtained by essentially biological processes
- Interface between patents for plant-related inventions and plant variety protection
- Breeders' exemption
- Compulsory cross-licensing

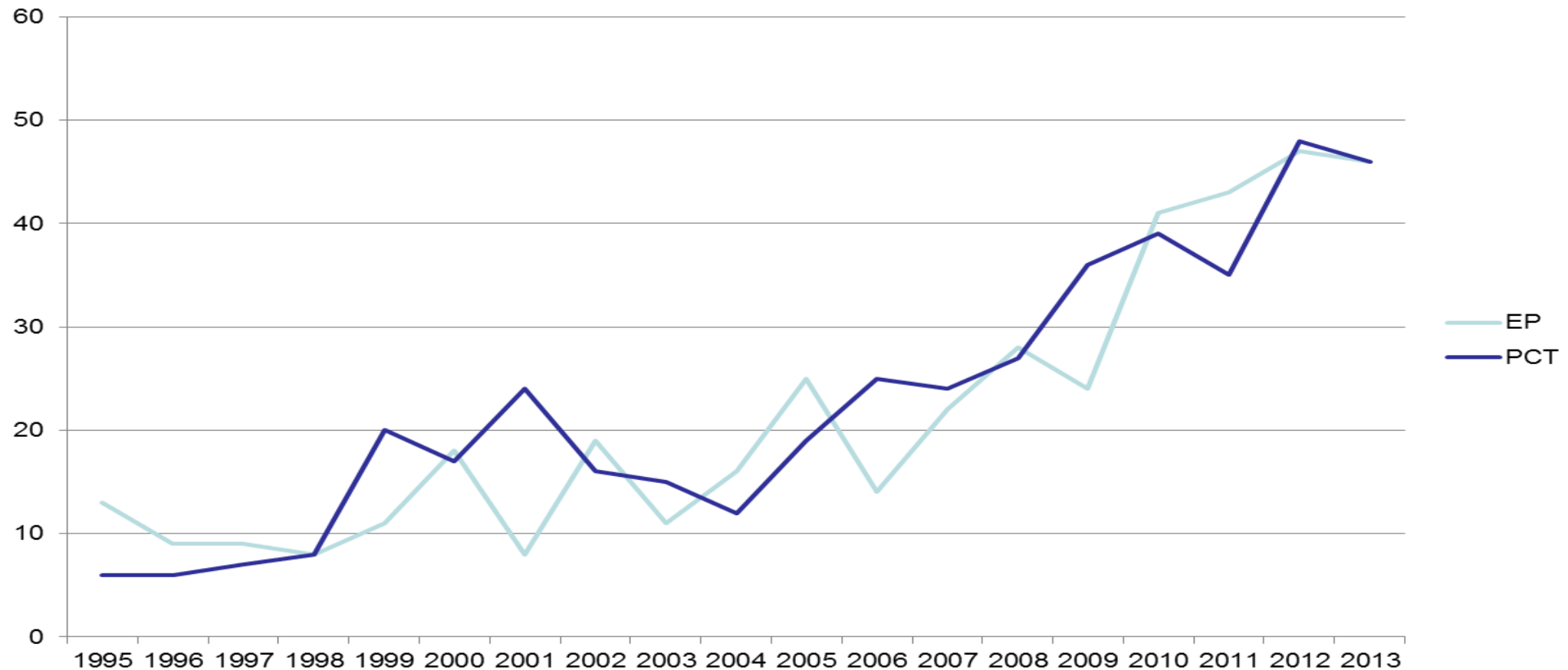
Essentially biological processes for the production of plants

- The issue
 - Essentially biological processes for the production of plants are not deemed patentable.
 - Easy distinction for GM plants versus 'classical' breeding
 - No easy distinction for 'mixed' processes such as MASB

Number of published patent applications per year for GM plants (source EPO)



Number of published patent applications per year for non-GM plants (source EPO)



Essentially biological processes for the production of plants

- Overview of arguments:
- Not only numbers are relevant, but also scope
 - E.g. must-have traits: is a trait that varieties of a certain species should have, otherwise the varieties will not be used (e.g., resistance against pests).
- Lack of breeders' exemption in patent system → lack of access
- Definition of term?
 - G 2/07: a process for the production of plants which is based on the sexual crossing of whole genomes and on the subsequent selection of plants -> excluded; if additional step by itself introduces a trait into the genome or modifies a trait in the genome of the plant produced, so that the introduction or modification of that trait is not the result of the mixing of the genes of the plants chosen for sexual crossing -> patentable
 - One of the difficult points was the techniques of mutagenesis
 - Mutagenesis difficult point -> distinction between natural, random and targeted mutagenesis → divided opinions.
 - In view of majority of Expert Group, area of uncertainty is small

Essentially biological processes for the production of plants

- G 2/07 provides workable solution, but not exhaustive. Case law may refine in the future
 - There are few patents
 - For some experts, access remains the major issue, as numbers do not say everything
 - For others, excluding plants from patentability is the best solution
-
- Recommendations
 - Very large majority: take no action.
 - Request a clarifying statement by the Commission (2 experts)
 - Conventional breeding should not be covered by patent protection
 - Recommend legislation to make clear what is unclear (same 2 experts as fall-back)

Products obtained by essentially biological processes

- G2/12 and G2/13
 - The exclusion of essentially biological processes for the production of plants in Article 53(b) EPC does **not** have a negative effect on the allowability of a product claim directed to plants or plant material such as plant parts.
- Overview of arguments
 - This might limit the scope of the exclusion from patentability of the essentially biological processes for the production of plants
 - Decision limits access for breeders
 - Not at odds with biotech directive (Art. 4(2)), which allows patents for plants if the technical feasibility of invention is not confined to a specific plant variety, irrespective of technique used
 - Not always possible to derive method used to create particular plant, may become even more difficult with new techniques

Products obtained by essentially biological processes

- Would access issue have been resolved when products obtained by essentially biological processes were excluded from patentability?
 - Plants obtained by technical processes may be identical → those patents would still cover these products
 - Reversal of burden of proof to show how plant was obtained was presented by some experts as an additional measure to be taken -> would amount to introducing a new concept in patent law
 - But even then, still not resolved. Product protection is absolute: scope of the product protection would also encompass the product obtained by different means
 - What is required is exclusion of the plants obtained by an essentially biological process from the scope of protection -> would amount to introducing a new concept in patent law. Scope of a product (=plant) claim should be limited to products obtained by a patentable process.

Products obtained by essentially biological processes

- There was no agreement on whether exclusion is needed
- However, agreement on fact that the allowability of patents on plants obtained by essentially biological processes may in some cases impinge upon the effectiveness of the exclusion of the processes from patentability.
- Recommendations
 - Very large majority: take no action -> solutions are not commensurate with the size of the problem
 - Request a clarifying statement by the Commission (4 experts)
 - Require statement from EC that plants obtained by essentially biological processes are excluded from patentability
 - If not possible to obtain satisfactory statement, then legislative change (see below)
 - Recommend legislation to make clear what is unclear (4 experts, as fall-back).
 - E.g. introduction breeders' exemption; reversal of burden of proof; limitation of scope of protection
 - Only one expert in favour of reopening directive

Patents for plants vs plant varieties

- The issue
 - The boundary between patent protection for plants and plant variety protection: where to draw the dividing line?
- Overview of arguments
 - allowing patents for plants makes the distinction between what is a patentable plant and a non-patentable plant variety obsolete
 - G1/98 and Biotech Directive: plant defined by one gene is not variety; plant defined by genome is variety
 - However, marketed product is typically variety (e.g. type of maize) → overlap between patents and PVR; one patent may cover many varieties
 - G1/98 useful to legally distinguish GM plants, scientific boundary less clear
 - Nothing new under the sun

Patents for plants vs plant varieties

- Recommendations

- Very large majority: Take not action -> No change by recent developments
- Request a clarifying statement by the Commission (4 experts)
 - exclusion of plants obtained by essentially biological processes from patentability (in contrast to G2/12)
- Recommend legislation to make clear what is unclear (same 4 experts, as fall-back).
 - exclude plant varieties from the scope of protection of patents relating to plants, but not clear how to achieve this

Breeders' exemption

- The issue:
 - The UPOV-system has a 'breeders' exemption' (full) allowing for the free use of protected varieties for further breeding and for the commercialization of the newly bred variety.
 - → The concept of a breeders' exemption was until recently not present in the patent system.
 - → No relevant provisions in biotech directive
 - → see however also in UPOV system the concept of "essentially derived variety" limiting effect of breeders' exemption
- "limited" breeders' exemption:
 - enables anyone to use the protected material, without permission of the right holder(s), for the purpose of breeding, or discovering and developing other plant varieties, but does not extend to commercial exploitation of the thus obtained plant varieties.

Breeders' exemption

- Overview of arguments:
 - Desire to gain access is overriding argument:
 - exemption needed to guarantee access, maintain biodiversity and thus beneficial for farmers, growers and consumers
 - also prerequisite for innovation: the material is needed, not the paper information.
 - Exemption would hollow out patent protection; is broader than research exemption
 - Does not hollow out protection, as original breeder has lead in market
 - PVR system protects commercial variety -> commercial product enters the market relatively soon after obtaining of the right -> lead time advantage vis-à-vis party who uses breeders' exemption
 - Is not present in patent protection -> protects an abstract technology, which is publicly available 18 months after filing -> commercial product will traditionally enter the market much later -> no lead time advantage
 - Different nature of systems suggests that transplants of exceptions is debatable.

Breeders' exemption

- Overview of arguments (2):
 - Patenting does not equal no access: license is needed
 - May not always be given
 - Why an exemption for only one industry?
 - Plant breeders start not from nothing, but from existing material. If no exemption in patent law, exemption in PVR loses meaning. Limited version ensures patent protection still valid for commercialization.
 - Similar arguments could be invoked for other industries
 - A number of EU member states have already introduced a limited breeders' exemption in the patent system
 - a limited breeders' exemption has also been introduced into the future European Patent with Unitary Effect (Art. 27(c))
- Contentious issues remaining:
 - Desirability of exemption, way/level of introducing exemption (UPC does not cover all of EU)

Breeders' exemption

- Recommendations

- Taking no action (9 out of 15)
 - No reopening of the Biotech Directive;
 - agreement on the UPC will in practice seem to solve the large majority of cases.
 - 6 experts against exemption as such
 - Other 3 are not in favour or against breeders' exemption.
- Request a clarifying statement by the Commission (0 out of 9)
- Recommend legislation to make clear what is unclear (6 out of 15):
 - 4 in favour of an EU wide breeders' exemption, 3 of which think UPC resolves the issue satisfactorily but will take too long, and hence other form of legislative action is required
 - 2 experts require some form of legislative action (non reopening Biotech Directive)
 - 1 expert proposes: EU-wide breeders' exemption, or full breeders' exemption and/or license as of right should be inserted into the Biotech directive

Compulsory cross licensing

- Overview of arguments:
 - Patent holder cannot be blocked by PVR, in view of breeders' exemption
 - Breeder for a PVR can be blocked by patent
 - Provision is not always easy to understand or put into practice
 - “acquiring” a PVR -> what does it mean
 - Breeding has already taken place and breeder is in stage of applying for PVR?
 - If that interpretation is followed and no license is obtained, considerable investment “waste”
 - Does “acquire” include all activity prior to filing of PVR?
 - License can be obtained in early stage, but license could prove useless as the use of the patented material may in fact never lead to a PVR

Compulsory cross licensing

- Overview of arguments (2):
 - What is reasonable offer that is made/refused?
 - Typical requirement of compulsory licensing scheme, and as such nothing out of the ordinary
 - Legal uncertainty?
 - Difficult to prove 'significant technical progress of considerable economic interest':
 - Technicality not requirement of PVR
 - Again, no exceptional language (Art. 31(I) TRIPS)
 - The difference is that present provision combines two IP rights
 - No case known where compulsory license is given or applied for
- ILP Vegetable organises voluntary access to plant material for further breeding

Compulsory cross licensing

- Conclusions/Recommendations :
 - Language convoluted, but such language is not uncommon to already compulsory licensing provisions upon which Article 12 has been based
 - Transplant between two systems makes system somewhat even less easy to apply
 - Large majority of Group -> less than perfect wording of the provision did not warrant a need for change, as compulsory licensing schemes, including existing ones within the patent system, are always difficult to apply and very rarely if ever used. Wording is largely based on existing compulsory licensing provisions, whose overhaul is not requested
 - Request a clarifying statement by the Commission (2 experts)
 - No patents allowed that cover plant varieties
 - Recommend legislation to make clear what is unclear (2 experts as a fall-back).
 - full breeders' exemption and/or license as of right should be inserted into the Biotech directive

THANK YOU!





Video from the sector:

De Bolster

Coffee Break





Patentability of products obtained by essentially biological processes

Panel discussion



Possible solutions

Jean Bergevin, Head of Intellectual Property
and Fight Against Counterfeiting Unit, European
Commission



Possible Solutions

**Jean BERGEVIN, Head of Intellectual Property and
Fight Against Counterfeiting Unit
(European Commission)**

Directive 98/44/EC of the European Parliament and of the Council of 6 July 1998 on the legal protection of biotechnological inventions

Article 4.1. The following shall not be patentable (...)

a) plant varieties

b) essentially biological processes for the production of plants or animals

Possible solutions

Maintain the status quo:

- *[by not reopening the Directive*
- *not providing clarification guidelines]*

- *Undesirable on several levels, it would serve no purpose:*

The problem will not be solved, as we would be left with the uncertainty surrounding the patentability of products obtained by essentially biological products: not patentable for some national legislations (DE, NL and soon FR), patentable for others, as well as for the EPO (according to the decisions of the Enlarged Board of Appeal G2/12 and G2/13)

Risky and lengthy solutions

Reopening the Directive

- *"opening Pandora's Box" effect*
- *other sensitive issues such as patentability of human stem cells could arise and effectively challenge the adoption of a new Directive*
- *history to repeat itself: more than 10 years were needed to reach an agreement on the present Directive*

Rapid solutions

From the Commission's side, provide stakeholders with a clarifying Notice - in the light of the EBA's G2/12 and G2/13 Decisions - regarding the scope of article 4(b) of the Directive, namely what is patentable?

Rapid solutions

- *Such a Notice has a non-binding legal effect, but it still offers a satisfactory solution in terms of interpreting the scope of the Biotech Directive*

Rapid solutions

- *Support cross-licensing and cooperation networks that can effectively mitigate any disruptions in the balance between patent holders and plant breeders*
- *Promote the extension of the PINTO database to add transparency to the interplay between PVR and patent holders.*

Mid-term solution.

- *The Court of Justice of the European Union and the future Unitary Patent Court are both entitled to render judgement and further clarify the scope and intent of the Biotech Directive*
- *provision of a limited Breeders' exemption under the Unitary Patent Package can help mitigate at least partly potential negative consequences*



Report of the Expert Group

Published 17 May 2016

at:

http://ec.europa.eu/growth/industry/intellectual-property/patents/biotechnological-inventions/index_en.htm

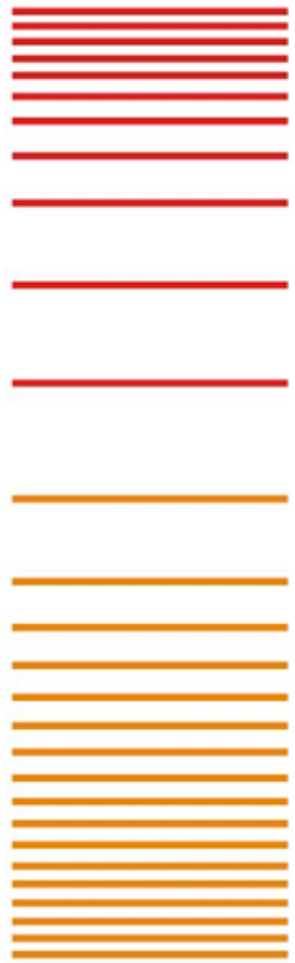


Questions from the audience



Lunch break





Enhanced cooperation between European Patent Office and Community Plant Variety Office

Conversation between Martin Ekvad,
President of the CPVO, and Raimund Lutz,
Vice-President for Legal & International
Affairs of the EPO



Pinto Database

Szonja Csörgő, Director of Intellectual Property & Legal Affairs, European Seed Association



PINTO

Improving transparency of varieties
under patent in Europe

Szonja Csörgő
Director IP & Legal Affairs

Symposium "Finding the balance"
Brussels, May 18, 2016





Guiding principles of the ESA IP position:

- ✿ Safeguard access to all plant genetic material for further breeding
- ✿ Ensure freedom to operate in the field of crossing and selection

✿ Raising the bar

✿ Improving transparency → by creating a unique database that directly provides the link between a plant variety and the associated patent(s)

*A *Capsicum annuum* plant comprising a high level of lycopene conferring thrips resistance wherein the lycopene level is controlled by a mutation and wherein the mutation is a deletion on position Y in gene X.*

*A *Capsicum annuum* plant comprising a high level of lycopene conferring thrips resistance wherein the lycopene level is controlled by a genetic determinant that is as found in plants grown from seeds which are deposited with the NCIMB under deposit number NCIMB 99999, and wherein the level of lycopene is at least 3 times higher, when compared to the lycopene level in a plant not comprising said genetic determinant that is grown under the same conditions.*

*A *Capsicum annuum* plant comprising a high level of lycopene conferring thrips resistance wherein the lycopene level is controlled by a genetic determinant that is as found in plants grown from seeds which are deposited with the NCIMB under deposit number NCIMB 99999.*



PINTO – What is it?



An on-line database accessible from the [ESA website](#)

Patent **I**nformation and **T**ransparency **O**n-line



PINTO – What is it?



- ✿ launched: July 1, 2013
- ✿ open to the public
- ✿ over 650 registered users
- ✿ updates every 6 months – last: 25 January, 2016



PINTO – What does it cover?



- ✿ Scope: currently EEA
- ✿ Varieties commercialized and/or listed
- ✿ European and national patents and patent applications
- ✿ Information gathered from and provided by ESA member companies on a voluntary basis

crops	varieties	patents	supported by
23	approx. 1000	40	All ESA members

LET'S GO LIVE!



PINTO – What PINTO is not?



PINTO is :

- ✿ NOT a complete inventory of all varieties that can be covered by patents or patent applications – no complete FTO search can be based on PINTO!
- ✿ NOT a licensing platform!

THANK YOU FOR YOUR ATTENTION



CONTACT US

ESA European Seed Association
Rue du Luxembourg 23
B 1000 Brussels
T. +32 (0)2 743 28 60
secretariat@euroseeds.eu

FOLLOW US ON





International Licensing Platform Vegetable

Chris van Winden, Managing
Director of ILP Vegetable



International Licensing Platform Vegetable

Symposium “Finding the balance”

18 May 2016

Chris van Winden

Content

- ▶ Initiative vegetable breeding companies
- ▶ Result Steering Committee → ILP
- ▶ Antitrust Laws
- ▶ Arbitration system
- ▶ Expert Committee
- ▶ Variety Patents
- ▶ Patent Register
- ▶ Membership
- ▶ Other sectors in agriculture

Initiative vegetable breeding companies

- ▶ Wish of Dutch Minister of agriculture: breeding sector makes a code of conduct to give access to patents, covering biological material
- ▶ Start of discussions in 2010
- ▶ 11 companies in Steering Committee:
listed companies and family companies (with and without owning patents) from: France, Germany, Japan, Netherlands, Switzerland and USA
- ▶ 4 Years of negotiations

Result Steering Committee → ILP Vegetable

- ▶ ILP Vegetable was launched 13 November 2014
- ▶ Guaranteed access to patents covering biological material
- ▶ Fair and reasonable cost
- ▶ Members will make all patents related to vegetable breeding traits accessible to fellow members of the ILP Vegetable
- ▶ No provisions for patents related to GM traits

Antitrust Law

- ▶ Process guided by a lawyer, specialized in antitrust matters
- ▶ Assessment of risks under the EU and US Antitrust rules
- ▶ ILP Vegetable does not constitute a problem under the antitrust laws of the EU and the US

Arbitration System - Baseball procedure

- ▶ Bilateral negotiation (3 months)
- ▶ If bilateral negotiation fails, then decision-making by independent experts
- ▶ 2 license fee proposals
- ▶ Choice of most reasonable proposal
- ▶ Fee for baseball procedure to be paid by party with not chosen proposal
- ▶ Result Standard License Agreement (SLA)
- ▶ Most Favoured Nation percentage

Expert Committee

- ▶ 7 Independent experts
- ▶ Chairman
- ▶ 6 Experts from:
 - ▶ US (2)
 - ▶ Germany
 - ▶ UK/South Africa
 - ▶ NL (2)
- ▶ Initial board 3 members
- ▶ Objection board 3 members

Variety Patent

Granted patent under title 35 of US Act
(or equivalent right in other countries)

- ▶ Each member can use varieties owned by other members of ILP Vegetable, which are protected by a variety patent, without paying a royalty
- ▶ 2 conditions
 - ▶ notify the patentee member that he intends to start breeding with the protected variety
 - ▶ newly bred variety must be sufficiently different from the protected variety

Patent Register

Patent register available on website
146 patents in the register (April 2016)

Membership

- ▶ Membership is open for all interested parties (with or without owning patents)
 - ▶ Small member <100 employees
 - ▶ Medium member 100 < 500 employees
 - ▶ Large members > 500 employees
- ▶ Membership today: 3 small, 1 medium and 8 large members (65-70 % of the world vegetable seed market)
- ▶ Application Form
- ▶ Members' Agreement

Other sectors in agriculture

- ▶ Arable sector
- ▶ Ornamental sector
- ▶ ILP Vegetable is willing to support and to give advise
- ▶ All documents of ILP Vegetable are available



WELCOME TO ILP VEGETABLE

The International Licensing Platform for vegetable plant breeding

Share this page: [f](#) [t](#) [in](#) [p](#) [e](#)

MEMBER LOGIN

Username:

Lejeune

Password:

[Forgot Password?](#)

[LOGIN](#)



WHAT IS ILP VEGETABLE?

ILP Vegetable's main objective is to guarantee worldwide access to patents that cover biological material for vegetable breeding.



ORGANISATION

Eleven breeding companies were the founding fathers of the ILP Vegetable. The association is open for all other interested parties to join.



PATENT REGISTER

The ILP Vegetable provides a straightforward, easy way for vegetable breeders to license the traits they need.



LICENSING SYSTEM

The ILP Vegetable Licensing System is innovative, simple, transparent and cost-effective.



WELCOME TO ILP VEGETABLE

The International Licensing Platform for vegetable plant breeding

Share this page: [f](#) [t](#) [in](#) [p](#) [v](#)

MEMBER LOGIN

Username:

Lejeune

Password:

[Forgot Password?](#)

[LOGIN](#)



WHAT IS ILP VEGETABLE?

ILP Vegetable's main objective is to guarantee worldwide access to patents that cover biological material for vegetable breeding.



ORGANISATION

Eleven breeding companies were the founding fathers of the ILP Vegetable. The association is open for all other interested parties to join.



PATENT REGISTER

The ILP Vegetable provides a straightforward, easy way for vegetable breeders to license the traits they need.



LICENSING SYSTEM

The ILP Vegetable Licensing System is innovative, simple, transparent and cost-effective.



Criteria for a compulsory licence under Swiss Law in case a plant variety infringes a prior patent

Dr. Pascal Fehlbaum, D.E.A.
Attorney-at-law, Gros &
Waltenspühl Avocats



Criteria for a compulsory license under Swiss law in case a plant variety infringes a prior patent

Pascal Fehlbaum
May 18, 2016

Summary

- Criteria under Biotech Directive v. Swiss law.
- Reference by the Swiss law to its Seed Ordinance.
- Swiss legislator's will:

Message of the Federal Council for the approval of the revised International Convention for the Protection of New Varieties of Plants and the modification of the Swiss Act on Plant Variety (BBL 2004, 4155).

Swiss Patents Act (PatA)



Art. 36a (*in force since 1 Sept. 2008*)

- 1 When a plant variety right may not be claimed or used without infringing an earlier-granted patent, the plant breeder or the owner of the plant variety has the right to a non-exclusive licence to the extent required to obtain and use his plant variety right, provided that the plant variety represents an important advance of considerable economic significance in comparison to the patent-protected invention. For varieties for agriculture and food, the criteria under the Seed Ordinance of 7 December 1998 serve as a reference point.
- 2 The proprietor of the patent may make the grant of a licence conditional on the owner of the plant variety granting him a licence to use his plant variety right in return.

BIOTECH DIRECTIVE 98/44/EC



- **Art. 12 § 1 : plant variety infringes prior patent**
 - Compulsory non-exclusive licence;
 - Payment of an appropriate royalty;
 - Possible cross licence for the patent holder.

- ***(Art. 12 § 2 : patent infringes prior plant variety)***

Swiss Patents Act (PatA)



Plant variety infringes earlier-granted patent

- **Art. 36a § 1** (12 § 1 BIOTECH DIRECTIVE)
 - **Compulsory non-exclusive licence.**
- **Art. 36a § 2** (12 § 1 BIOTECH DIRECTIVE)
 - **Possible cross licence for the patent holder.**
- ***(Art. 22a Swiss Act on Plant Variety : patent infringes prior plant variety)*** (12 § 2 BIOTECH DIRECTIVE)

BIOTECH DIRECTIVE 98/44/EC



- **Art. 12 § 3 : criteria for obtaining such a licence**
 - a) Applicant must have applied unsuccessfully to the holder of the patent;
 - b) Plant variety constitutes significant technical progress of considerable economic interest compared with the invention.
- **Art. 12 § 4 : Authority for granting the licence**

Swiss Patents Act (PatA)



For all compulsory licences in Articles 36–40d

- **Art. 40e § 1 :** (12 § 3 a BIOTECH DIRECTIVE)

- Granted only if efforts by the applicant to obtain a contractual licence on appropriate market terms within a reasonable period of time have been unsuccessful.

- **Art. 40e § 6 :** (12 § 4 BIOTECH DIRECTIVE)

- A judge has to decide on :

- Granting; ✓
 - Revocation; ✓
 - Scope; ✓
 - Duration; ✓
 - Remuneration. ? (tbd)

- Swiss Federal Patent Court (Art. 26 § 1 lit. a Patent Court Act)

Swiss Patents Act (PatA)



- **Art. 36a § 1 : criteria for obtaining such a licence**
 - **plant variety represents an important advance of considerable economic significance in comparison to the patent-protected invention (12 § 3 b BIOTECH DIRECTIVE).**
 - **For varieties for agriculture and food, the criteria under the Seed Ordinance of 7 December 1998 serve as a reference point.**

Swiss Seed Ordinance



- **Art. 5 Requirements for market authorisation of a new variety**
 - Is Distinguishable, Uniform and Stable (DUS);
 - Value for Cultivation and Use (VCU) is an improvement compared to other varieties;
 - The selection method is recognised by the authority;
 - The denomination of the variety complies with the law;
 - Some exceptions may be introduced by the authority in particular for varieties of minor importance and vegetables.

Swiss legislator's will



- **Federal Council Message (BBl 2004, 4155)**
 - Implement the BIOTECH DIRECTIVE
 - The threshold of “*an important advance of considerable economic significance*” shall not be too high;
 - The requirements of the Seed Ordinance shall serve as a reference point.

Conclusion



- **Currently no case law:**
 - **Efforts by the applicant to obtain a contractual licence on appropriate market terms within a reasonable period of time are successful;**
 - **The system seems to work.**



➤ Questions ?

Pascal Fehlbaum

Dr. iur., D.E.A, Attorney-at-law

pascal.fehlbaum@g-w.ch

Coffee Break





View from the European Parliament

Jan Huitema, Member of the European Parliament



Questions from the audience



Concluding remarks

Elzbieta Bieńkowska,
Commissioner for the Internal
Market, Industry,
Entrepreneurship and SMEs



Closing of the day

Informal cocktail reception

