



Carlsberg again files patent applications on barley and beer

Alarming findings revealed by new *No Patents on Seeds!* research

10 April 2020 / New research carried out by *No Patents on Seeds!* has revealed that Carlsberg has filed further patent applications claiming barley and beer. These latest applications were filed in 2019. Carlsberg is one of the largest breweries in the world; it has previously faced heavy criticism for its ‘patents on beer’ granted in 2016 by the European Patent Office (EPO). Oppositions to these patents were filed, with the involvement of around 40 organisations. Even though no final decisions have been taken on these patents, the company is once more trying to turn seeds, barley and beer into an ‘invention’, with new monopolistic patents (WO2019129736, WO2019129739, WO2019134962).

There is no technical innovation described in the three new patent applications, and no methods of genetic engineering are applied. Instead, well known processes were used to trigger random mutations: seeds from barley plants were brought into contact with chemicals to speed up the mutation rate and enhance genetic diversity. Afterwards, further crossing and selection was carried out to breed plants with desirable characteristics. Barley kernels with changed starch composition are supposedly useful in the brewing process. Even though there is nothing new or technical in the process described in the patent, the company is claiming the resulting seeds, plants, the harvest as well as food and beverages, such as beer, as its invention.

“Patents create monopolies. If conventionally bred plants and animals are claimed in patents as ‘inventions’, they cannot be used for further breeding without the permission of the patent holder,” Christoph Then says for *No Patents on Seeds!* “The patent holder can control, hinder and even block access to biological diversity in food plants and farm animals. As a result, a handful of big corporations can acquire far-reaching control over our daily food production.”

The patent applications filed by Carlsberg highlight a general problem created by the EPO: in June 2017, the Administrative Council of the EPO decided that patents on conventionally bred plants and animals should no longer be granted. However, influenced by the former president of the EPO, the decision did not go far enough, since patents on random genetic variations were not excluded. No clear distinction was made between the technical processes known as genetic engineering and conventional breeding. The problems were exacerbated when, at the end of 2018, the EPO decided that plants and animals derived from conventional breeding should generally be considered to be patentable ‘inventions’.

This situation completely contradicts the political will and democratic decision-making of the 38 member states of the EPO. In response, at the beginning of 2019, the EPO stopped all further patent procedures in the field of conventional plant and animal breeding. At the same time, the highest legal institution of the EPO, the so-called Enlarged Board of Appeal was asked to assess current decision-making. The Enlarged Board of Appeal is expected to publish its decision (G3/19) in the first half of 2020.

Against this backdrop, *No Patents on Seeds!* carried out its latest research on current patent applications. The research revealed nearly one hundred recently filed patent applications on conventional plant and animal breeding. *No Patents on Seeds!* will publish its findings within the next two weeks. The upcoming report will show how companies, such as Carlsberg, Bayer and BASF, try their utmost to exploit legal loopholes and uncertainties created by EPO decision-making. The report will also provide information to public and political decision-makers about what needs to be done to safeguard the interests of European breeders, gardeners, farmers and consumers. *No Patents on Seeds!* demands that access to biological diversity needed for further breeding must not be controlled, hampered or blocked by patents.

Are you interested in viewing the *No Patents on Seeds!* report before its publication? Send an email to info@no-patents-on-seeds.org.

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Further information

[All Carlsberg patent cases on barley and beer on our homepage](#)