



BASF patent on watermelons upheld

European Patent Office rejects *No Patents on Seeds!* opposition

12 September 2023 / The European Patent Office (EPO) has rejected an opposition filed against a BASF (Nunhems) patent on watermelons with bushy growth habit (EP2814316). *No Patents on Seeds!* filed the opposition because the patent is not inventive and patents on conventionally-bred plant varieties are prohibited.

The bushy growth of the plants was a random occurrence and, according to the patent description, the plants were simply a discovery in a home-garden. Their advantage: less land is needed for cultivation. The EPO granted the patent in 2021 as the patent holder had applied an additional well-established method (for generating triploid plants) to reduce the number of kernels. Clearly, neither the applied method nor the detection of the bushy growth habit is based on an invention.



Christoph Then, coordinator at *No Patents on Seeds!* the international coalition that filed the opposition: "The EPO decision is in direct contradiction to the law and to the basic principles of the patent system. No one can claim an invention if a discovery is combined with well-known methods and the results are not surprising. The prohibitions in regard to patentability of conventional bred plants are severely violated. This decision is setting an extreme precedence in regard to life patents."

According to European patent law, patents on plant varieties are generally prohibited. Patents can only be granted if the plant characteristics are obtained from genetic engineering.

In Europe, the plant variety protection (PVP) law guarantees that breeders can use all conventionally-bred varieties to breed and market improved varieties. In contrast, patents can be used to hamper or block access to biodiversity needed by all breeders. If such patents are granted, only big companies can survive in the long-term, and they will then decide what is grown and harvested, as well as what food is marketed at which price.

No Patents on Seeds! plans to appeal the EPO decision and is demanding that politicians take their responsibility seriously and finally implement the existing prohibitions in patent law. Patents on conventionally-bred plants and animals have to be stopped. The Austrian government has already decided to amend national patent laws as a first step, other European countries may follow soon.

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Further information

Further information about the patent:

<https://www.no-patents-on-seeds.org/en/patent-cases/bushy-melon>

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