



No decision on European patent on beer and barley

No Patents on Seeds! urges politicians to act

25 March 2025 / A hearing on a patent granted to Carlsberg (EP2575433) took place today before the Board of Appeal at the European Patent Office (EPO) in Munich. The hearing did not lead to any result. Instead, the Board of Appeal referred the case back to the first instance, the Opposition Division. This division had not examined the inventive step in relation to all claims. The Board therefore lacked the necessary basis for its decision.

Carlsberg used the patent to claim conventionally-bred barley and its use in brewing as its own invention. The oppositions were originally filed by the international coalition *No Patents on Seeds!* together with a network of over 20 other organizations and, Hirt, a private Austrian brewery. They argued that it is not permitted in Europe to patent plants obtained from conventional breeding. However, the EPO considers randomly induced mutations to be technical inventions.



The patent claims barley plants with random genetic changes which reduce the formation of certain substances that can negatively affect the taste of beer. Genetic engineering methods were not used to breed the plants. Methods of 'random mutagenesis' have been used freely over many decades and have not previously been patented.

It was not until 2017 that the EPO explicitly started to view plants obtained from random mutagenesis as equivalent to those obtained from genetic engineering processes. The problem is that now even varieties bred without using genetic engineering can be affected by patents. Even pending applications for these patents can have a deterrent effect due to costs and legal uncertainties. This can result in certain new varieties not being developed at all. These problems are already well-known in the breeding of barley. The developments subsequently affect diversity in the field, diversity in plant breeding and also diversity in the beer glasses, as only large companies remain competitive under these conditions.

Currently, there are discussions underway in Brussels on the patenting of seeds and the future regulation of plants obtained from new genetic engineering (NGTs). *No Patents on Seeds!* is calling for conventional plant breeding (including random mutagenesis) to be excluded from patentability. Corresponding amendments to the law are already in force in Austria and can also serve as a template for Brussels.

Contact

- Christoph Then, spokesperson *No Patents on Seeds!*, info@no-patents-on-seeds.org, +49 151 54638040
- Johanna Eckhardt, project coordination, *No Patents on Seeds!*, johanna.eckhardt@no-patents-on-seeds.org, + 43 680 2126 343

Further information

- More info about the patents on beer: <https://www.no-patents-on-seeds.org/en/patent-cases/beer>
- Report patents on barley (2021): https://www.no-patents-on-seeds.org/en/patents_barley
- Latest research report of *No Patents on Seeds!* : <https://www.no-patents-on-seeds.org/en/report-patents>

You can share our posts about this press release on [Facebook](#) and [X](#) or share the direct link to this press release: <https://www.no-patents-on-seeds.org/en/beer-appeal>