

Genetische Manipulation und Patentrecht: Eine extrem wichtige Frage!

Description

Als Craig Venter et al. den ersten synthetischen Organismus erschufen kodierten Sie Ihre Namen und weitere Informationen in den DNA Kode um den Nachweis zweifelohne führen zu können das Sie der Erschaffer dieses Genkomplexes sind.

www.spiegel.de/wissenschaft/natur/erster-kuenstlicher-organismus-sie-sollen-tun-was-wir-wollen-a-696057.html

Genetisch Manipulierte Organismen (GMOs) können patentiert werden – nicht-GMOs können nicht patentiert werden. Die extrem wichtige Frage ist: Wem gehören die veränderten Gensequenzen die den Menschen momentan unter falschem Vorwand der "Impfung" injiziert werden? Wie sieht das Ganze patentrechtlich aus?

Jiang, L.. (2020). Commercialization of the gene-edited crop and morality: challenges from the liberal patent law and the strict GMO law in the EU. *New Genetics and Society*

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"The eu aspires to utilize the economic advantages of gene-editing technology on one hand and ensure human health and environmental safety on the other. surrounding the fierce debates over emerging gene-edited plant, the current debate focused on the issue of whether the gene-edited crop should be within or outside the gmo law and its implication for innovation. it should not be forgotten that it is also involved in the complex patentability issues pertaining to the legal interpretation of the patent law. the gene-edited crop is governed by gmo regulations due to its potential risk to human health and environmental safety. but it is heavily patented, as patent regulations ignore its potential risk. this article examines the discrepancy of the gene-edited crop between the existing gmo law and the patent law and reveals the challenges to current eu jurisdiction, including the international trade impediment challenge, the patent monopoly challenge, the market confusion challenge, and the agricultural economy suspension challenge. in the end, this article argues that eu gmo regulations should be bridged with a patent system in facing the regulatory challenges from the gene-edited crop."

Medvedieva, M. O., & Blume, Y. B.. (2018). Legal Regulation of Plant Genome Editing with the CRISPR/Cas9 Technology as an Example. *Cytology and Genetics*

Plain numerical DOI: 10.3103/S0095452718030106

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"The product-oriented and the process-oriented legal approaches to the regulation of genome editing technologies, crispr/cas9 in particular, are considered. the relevant legislation of the united states and the european union and some international treaties are analyzed. the issue of genome editing that is within the scope of gmo legislation and general legislation on risk assessment and regulation is addressed. the issue of patenting of gene editing technologies in the legislation of the united states and the european union and under international law is considered. 'patent wars' between research teams that developed the crispr/cas9 technology are described. the possibilities of obtaining patent protection for plants produced by genome editing are considered."

Crespi, R. S.. (2000). An Analysis of Moral Issues Affecting Patenting Inventions in the Life Sciences: A European Perspective. Science and Engineering Ethics

Plain numerical DOI: 10.1007/s11948-000-0045-8

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"Following the 1980 us supreme court decision to allow a patent on a living organism, debate has continued on the moral issues involved in biotechnology patents of many kinds and remains a contentious issue for those opposed to the use of biotechnology in industry and agriculture. attitudes to patenting in the life sciences, including those of the research scientists themselves, are analysed. the relevance of morality to patent law is discussed here in an international context with particular reference to the law of the european patent convention administered by the european patent office (epo). the epo has been the principal forum for opposition to such patents and the few cases under dispute in the epo are reviewed, including patents for the onco-mouse, human relaxin gene, and the pgs herbicidally resistant plant (gmo). morality provisions in the european parliament and council directive 98/44/ec are also summarised."

Carpenter, C.. (2010). Seeds of Doubt: The European Court of Justice's Decision in Monsanto v. Cefetra and the Effect on European Biotechnology Patent Law. International Lawyer

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"Monsanto technology llc v. cefetra bv" was the first european court of justice (ecj) interpretation of the twelve-year-old european union biotechnology directive (directive 98/44/eg), which established the foundation for patenting genetic material in member countries. 2 the ecj's decision effectively limited the scope of the directive, and consequently, european biotechnology patent protection by determining that genetic patents are only effective when the patented gene 'perform[s] the function for which it is patented[.]' 3 the first part of this paper will discuss the history of the parties in dispute and the industry that is becoming familiar to this kind of dispute. the second and third parts will focus on the specific case that is the focus of this paper, and the final portion will analyze the effect this case had and will continue to have on patent law, particularly in the european union and argentina."

Zimny, T.. (2015). Recent changes to EU law on GMOs and their potential influence on the patentability of GM plants. Some remarks on possible side effects of directive 2015/412/EU.

Biotechnologia

Plain numerical DOI: 10.5114/bta.2015.54185

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“In this article i present recent changes in eu legislation on the cultivation of gm plants and i attempt to answer the question as to whether the new laws continue to follow the precautionary principle approach and the case by case approach that characterized the european union’s gmo legislation until recently. also, given the nature of the newly introduced grounds for restricting the cultivation of gmos, i try to find out if the new legislation could influence the patentability of transgenic plants or methods of their production. while growing in popularity around the world, transgenic plants face strong opposition within the european union. recent changes to eu legislation governing the cultivation of gm plants are just another example of the said opposition. directive (eu) 2015/412 of the european parliament and of the council amending directive 2001/18/ec provided member states with means to restrict or effectively prohibit cultivation of genetically engineered plants in their territories, even if such plants have already been authorized for cultivation in the eu. the reasons countries can currently invoke in order to introduce limitations are no longer restricted to bio-safety, but rather encompass a set of political and social issues such as socioeconomic impacts, avoidance of gmo presence in other products, agricultural policy objectives, public policy etc. they are to a much lesser extent (than up till now) based on the precautionary principle, as possible restrictions will also concern already examined and authorized gmos. restrictions no longer need to target particular transformation events, they can now encompass certain traits or crops. when it comes to the patentability of gm plants or methods of their production, the recent changes seem to have limited influence, given the european patent office’s stance on the application of morality and ‘ordre public’ exclusions and its relative independence from eu law. the possibility cannot be excluded that local laws adopted on the basis of the newly introduced changes could influence procedures before local patent office, should those offices decide to apply the morality or ‘ordre public’ exception to patentability. the newly adopted laws have a rather different effect, though. the profitability of developing gm plants in the eu (and their patenting) may become questionable, should the exploitation of such inventions be prohibited in several eu member states.” Beslac, M., & Coric, G.. (2017). Financial and production aspects of genetically modified organisms. *Ekonomika Poljoprivrede*

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“The purpose and goal of this research is to familiarize the general community, especially agricultural producers with the problem of financing the cultivation and trade of gmo and the problems serbia is facing in the process of joining the eu. the paper uses an experimental method, the method of analysis, synthesis, induction and deduction, and presents the results which have been obtained by surveying 163 farmers from vojvodina. the main results of this study show that, if the law so regulates, most agricultural producers agree to produce gmos, but only if the conditions for the traditional production do

not provide acceptable yield and income. the contribution of this paper is that it has shown that gmos are such organisms that would never have been created in nature and that they actually represent a patent for certain organizations. it has also shown that there is a need for informing and educating farmers in the field of gmos as well as the need for further research on this topic."