

ORAL QUESTION WITH DEBATE O-0069/09

pursuant to Rule 108 of the Rules of Procedure

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to the Commission

Subject: European Patent Office's practice with regard to granting patents for essentially biological processes for the production of plants and animals

In 2002 the European Patent Office (EPO) granted a patent to the UK company Plant Bioscience Ltd on a method for increasing a specific compound in the *Brassica* species broccoli through conventional (marker-assisted) cultivation methods (patent number EP 1069819). The patent includes the production methods, as well as the broccoli seeds and edible broccoli plants obtained through these production methods. This patent has been challenged and the case is now pending before the EPO's Enlarged Board of Appeal.

Article 4 of Directive 98/44/EC¹ on the legal protection of biotechnological inventions lays down that essentially biological processes for the production of plants or animals are not patentable.

In creating a precedent, this patent would drive forward further monopolisation of the seed market by opening the way for plant breeding firms to be denied free access to seed as laid down in EU Regulation (EC) No 2100/94² on Community plant variety rights and the freedom to use common production methods.

How does the Commission, as guardian of the Treaties, view the granting of this patent?

What ways of influencing this matter are available to the Commission?

What steps will the Commission take?

Does the Commission know what stage has been reached in the discussions in the Enlarged Board of Appeal, and how does the Commission judge the situation?

The Commission received a written question about the same issue in April 2008 (E-2147/08) and answered the question in September 2008. As, on the one hand, the answer to this question did not satisfy the MEPs, and on the other hand a debate on the most recent developments in the procedure concerned seems to be appropriate, this question should be discussed in plenary.

Tabled: 02.04.2009

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Deadline for reply: 13.04.2009

¹ OJ L 213, 30.7.1998, p. 13.

² OJ L 227, 1.9.1994, p. 1.