29 September 2025
Press release
Environment/Agriculture/Economy/GMOs

European Patent Office grants scandalous patent on tomatoes

Monopoly on breeding with resistance genes found in wild tomatoes

Schiltern, Austria/Munich/Brussels – A patent held by the Dutch company Enza Zaden claims genes that confer resistance to the devastating tomato brown rugose fruit virus (ToBRFV). The claimed gene sequences were discovered in a wild species of tomato *(Solanum habrochaites)* that originates from Peru and Ecuador and is considered one of the most important sources for genetic diversity in tomato breeding. It has now been made public that the patent was granted by the European Patent Office (EPO) in July 2025. Patent EP3911147 also claims all traditional breeding with the resistance genes.

"*The increasing threat of monopolisation similarly affects gene banks and traditional regional varieties as well as commercial varieties currently on the market. These can be screened for naturally occurring genes whose further use may be blocked by a patent or made subject to licensing agreements.*" says Dagmar Urban for ARCHE NOAH. Natural genetic resources detected in wild or cultivated plants could be reclassified as technical inventions. Free breeding would become impossible.

The virus-resistant plants were crossed with tomatoes currently marketed in Europe *(Solanum lycopersicum)*, thereby transferring the valuable resistance. The European Patent Convention (EPC) prohibits patents on processes and products derived from crossing and selection. Europe only allows patents on genetically engineered plants. European legislators have enacted several legal provisions to prevent the patenting of classical plant breeding. Nevertheless, patent practices at the EPO undermine these provisions.

"*This case is an alarming sign that the EPO is violating the intention of the legislator to prevent patents on plants and plant material used in classical breeding. Furthermore, the patent shows that company activities also include biopiracy.*" Johanna Eckhardt says for *No Patents on Seeds!*.

No Patents on Seeds! recently joined with other organisations and breeding companies to file an opposition to another patent on tomatoes (EP 3629711). Legally, however, the new patent described above must be assessed differently. Enza Zaden's patent represents a first: it is the first patent to be applied for and granted after Rule 28(2) came into force, which clarifies the exemption of classical breeding from patentability. It also claims natural genes for crossing and selection. Against this backdrop, ARCHE NOAH calls for urgent action to implement correctly the exclusion from patentability of plants derived from classical breeding, and to limit the scope of patents derived from genetic engineering, including new GMOs (NGTs). The European Parliament has made proposals along these lines as part of the NGT negotiations. In the medium term, ARCHE NOAH recommends a full overhaul of the European patent legislation to exclude patents on all plants, as well as the genetic information contained therein. This will be a complex and lengthy process requiring revisions of the EU Biotech Directive and EPC, but is necessary to once and for all put an end to legal loopholes that can be exploited by resource-rich seed giants and patent lawyers to gain monopoly rights over the plants and seeds that are the starting point for our food security.

More information about tomato patents: www.no-patents-on-seeds.org/en/jordan_virus

Patent of Enza Zaden: https://register.epo.org/application?lng=en&number=EP19880924

Media Contacts:
Axel Grunt
Head of Communications ARCHE NOAH
Tel.: +43 680 23 79 245
E-Mail: axel.grunt@arche-noah.at

Dagmar Urban, Seed Policy Expert (Austria), ARCHE NOAH,
Tel.: +43 676 931 81 80
E-Mail: dagmar.urban@arche-noah.at,

Johanna Eckhardt
Project Coordination *No Patents on Seeds!*
Tel.: +43 680 212 63 43
E-Mail: johanna.eckhardt@no-patents-on-seeds.org

Christoph Then, Spokesperson *No Patents on Seeds!*
Tel.: +49 151 54 63 80 40
E-Mail: info@no-patents-on-seeds.org