

Europe Grants First Patent on Plants

Brussels

The biotechnology company Agrigenetics of Boulder, Colorado, has had an application approved by the European Patent Office (EPO) in Munich for what is thought to be the first European patent on plants.

According to officials from the EPO, the patent in question involves a technique for increasing the protein content of forage crops such as alfalfa. The significance of the patent is that it includes not only legal protection for the technique itself, but also for plants produced with the aid of the technique.

The patent office's decision appears to open the way for the general acceptance in Europe of patents on new forms of both plants and animals created through the use of genetic engineering. Until now, there has been general uncertainty over whether such patents are allowable under the European Patent Convention of 1973.

Although the convention, which sets the general framework for patent law in most European countries, allows the patenting of microorganisms, it specifically excludes from patent protection "plant and animal varieties," as well as "essentially biological processes for the production of plants and animals."

Some claim that the convention can be read as excluding all claims for patents on plants and animals. Others, however, argue that, if a limited interpretation of the category "animal and plant variety" is adopted, then the convention still allows patents to be granted on new animals and plants, or on their constituent parts, which are not considered to make up a variety.

This approach, for example, has been adopted in the draft of a directive seeking to clarify European patent law, which is currently being completed by the Commission of the European Economic Community (EEC) in Brussels. A final version of the directive is due to be presented to ministers representing the 12 member states of the EEC within the next few weeks.

In its current form, the draft is said to argue that genetic manipulation should be characterized as a (patentable) "microbiological process," rather than as a (nonpatentable) "essentially biological process," and that as such it should be legitimately considered a patentable invention.

The Commission intends to go on to claim that, since a basic principle of European patent law is that protection should cover

both a process and the product that results from its application, a new plant or animal produced with the use of these genetic manipulation techniques should also be patentable.

Such patents can therefore be granted, it suggests, regardless of the ban on patents on new animal and plant varieties imposed by the 1973 convention. In other words, the Commission intends to argue that the convention does not exclude the patenting of plants and animals as such.

The European Patent Office appears to have adopted this interpretation of the current legal limitations in approving the Agrigenetics patent (which will be valid in all European countries that have signed the convention).

It has yet to make a decision on whether the same principle should be applied to an application it has received from Harvard University for a patent on the so-called "myc-mouse" developed by Philip Leder and Timothy Steward, which carries the *myc* oncogene in its genome, and was recently awarded the first U.S. patent on a living animal. Applications for patents on living organisms have also been filed by several European companies. ■ D.D.

U.K. Group to Set Up Soviet Seismic Station

A privately funded group of British scientists has been given permission by the Soviet government to carry out a series of experiments in the Soviet Union designed to measure the ability of seismic equipment to detect low-level nuclear tests.

The first research equipment will be set up later this year at Garm in Kazakhstan, 1000 kilometers south of the nuclear test site of Semipalatinsk. It will be close to detection facilities that have already been installed by a U.S. group organized through the Washington-based Natural Resources Defense Council.

"It is the first step toward internationalizing the process [of testing verification techniques]" says geophysicist David Davies, chairman of the British Seismic Verification Research Project, and a former editor of the journal *Nature*.

"Now that there are teams of two nationalities, it makes the whole project that much broader. In the future, we would like to have more countries coming in," says Davies, adding that interest has already been shown by scientists in Australia, Sweden, and West Germany.

The U.K. project, which was given its formal approval by the Soviet government at a meeting in Moscow in mid-May, is

being financed by grants from several British foundations, including the Rowntree and Cadbury Trusts. The research projects will be conducted by graduate students from a number of British universities, and the project is being led by a group from the University of Leicester.

"We see this exercise both as a genuine research project and as a confidence-building measure," says Davies. "At present, we feel confident that we can detect tests down to 1 kiloton in size, and our aim is to see how much further we can lower this threshold." ■ D.D.

Stock Market Decline Cuts Endowments 13.1%

Last year's Black Monday plunge in the stock market cost the 50 American universities with the biggest endowments an average 13.1% in their value. A special study for the National Association of College and University Business Officers indicated, however, that the universities' investment portfolios fared better than common stocks in general, which declined an average 22.6% overall. The special study covered the last quarter of 1987 and focused on 50 institutions with endowments worth more than \$100 million.

NACUBO's regular annual endowment study of 296 colleges and universities for the year ending 30 July 1987 shows that the year preceding the crash was a favorable one for endowments. Earnings from stocks averaged nearly 25% and the market value of funds in the study rose to \$47.9 billion from \$40.5 billion in mid-1986.

Four institutions were listed as having endowments with market values over \$2 billion: Harvard, \$4 billion; University of Texas System, \$2.8 billion; Princeton, \$2.3 billion; Yale, \$2 billion. ■ J.W.

Hungarian Researchers Form Unofficial Union

The first independent labor union to be openly established in Eastern Europe since the Polish Solidarity movement was created in 1980 has been set up by more than 1000 Hungarian scientists, laboratory workers, and university lecturers.

Named the Democratic Trade Union of Scientific Employees, the new union has been established partly to protest the government's decision last December to impose a 25% cut in its spending on research. This decision followed a period in which the government had been promising a significant and sustained increase in support for