

Plant Patent Act

Label: Plant Patent Act

Author: Daniel Gorman , York University

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Description The Plant Patent Act was passed in the United States in 1930. Before that date, plants and other genetic resources had been universally deemed "common property." The Plant Patent Act was ground-breaking in allowing farmers, plant breeders, and other interested parties to apply for patents for asexually reproduced plants. The main lobby behind the legislation was the ornamental garden breeders industry. Despite its narrow origins, the Act is important in the history of intellectual property and living organisms.



(Photo: IDRC-CRDI)

European countries began to pass similar legislation by the 1940s, creating a growing global commercial marketplace for genetically modified plants. In the 1960s, European laws were further liberalized, allowing plant breeders to protect sexually-reproduced varieties of plants if said plants were found to be stable and novel. This legislation was internationalized through the International Convention for the Protection of New Varieties of Plants (UPOV) (1961). UPOV gained new prominence in the mid-1990s by selling itself as a means for developing countries to comply with the WTO Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPs) requirement to provide either patent or sui generis plant protection for the ownership of plant varieties.

The United States passed The Plant Variety Protection (PVP) Act (1970). It granted exclusive marketing rights for new types of sexually reproduced plants. The Act excluded basic organisms, though with the Chakrabarty Case (1980), bacteria soon became patentable. The development of recombinant DNA technology in the 1970s and 1980s created a boom in the genetically engineered plant industry, at which point the property law model for plant types broke down. Recent disputes concerning plant patenting have centred on genetically-modified foods and the patentability of seeds, which has so far been allowed because it is not expressly forbidden by the Plant Protection Act.

The application of intellectual property to plant types has increased roughly coterminous to the Western powers' abandonment of their colonial empires. This has led some critics to denounce the global application of such laws as neo-colonial exploitation, a form of bio-piracy. More positive observers claim that the commodification of plant types gives developing nations, including their Indigenous peoples, a heretofore untapped economic resource. As evidence, they point to joint partnerships between developed and developing nations, such as that between the pharmaceutical company Merck and the Costa Rican government.

Suggested
Reading:

Chapman, Stephen and Steven Bahls. 1992. Patent laws and plant science. *Journal of Natural Resources and Life Sciences Education* 21 (2): 149-52.

Shiva, Vandana. 2001. *Patents: Myths and reality*. New York: Penguin Books.