

**9th International Conference on  
Agricultural Biotechnology: Ten Years After**

organized by the:

**International Consortium on Agricultural Biotechnology  
Research (ICABR)**

and the:

**Catholic University of Leuven  
CEIS - University of Rome "Tor Vergata"  
Centre of Sustainable Resource Development, University of California at  
Berkeley  
Economic Growth Centre, Yale University**

**Ravello (Italy), July 6-10, 2005**

***“Patenting Lives, Patenting Alternatives: Commercialising  
Agricultural Biotechnologies in the Developing World”***

**Author**

***Dr Johanna Gibson***

Lecturer in Intellectual Property Law  
Queen Mary Intellectual Property Research Institute  
University of London  
John Vane Science Building  
Charterhouse Square  
London EC1M 6BQ  
UNITED KINGDOM  
Tel: +44 (0)20 7882 5937  
Tel: +44 (0)20 7882 3447 (Secretary)  
Fax: +44 (0)20 7882 3446  
Email: [j.gibson@qmul.ac.uk](mailto:j.gibson@qmul.ac.uk)

**ABSTRACT**

While many have lauded the potential role of agricultural biotechnology in achieving food and agricultural security in the developing world, this enthusiasm has been tempered by concerns over access to that technology being limited by intellectual property monopolies.

This paper presents some of the initial work of the AHRB research project, Patenting Lives, which is examining the impact on cultural and economic development, of patent protection of life forms. The Patenting Lives project is analysing whether further limitations are warranted on the intellectual property monopolies that may be created in living organisms, including plants/plant varieties and animals, in the context of genetic engineering, and this paper will present upon some of the work of the project.

Of interest to the presentation, will be the application of patent protection to agricultural biotechnologies, and possible alternative strategies for encouraging investment and research, while ensuring adequate transfer of technology to developing countries and access to that technology by indigenous and traditional communities. The Patenting Lives project is providing critical insight into ethical commercial development of this technology, towards the review of patentability of living material, in the context of sustainable development, environmental concerns, and food security.

Patent protection, as it were, creates discrete objects of property out of the "hybrids" of genetic engineering, and certainty with respect to the technology through its categorisation and co modification as pure information. The products of genetic engineering are seemingly incomparable, as it were, to traditional notions of inventions, resulting in an attending risk of the "unknown." Arguably, a patent identifies and registers an apparently discrete form of information out of what is otherwise a process of genetic hybridisation, contrary to concerns over the effects of GMOs on the environment and the welfare of farmers and populations in developing and developed countries. In other words, registration as a patent artificially separates and fixes as a discrete object of invention what is actually in constant interaction with

and modified by its environment (such as the cross-fertilisation of seeds and so on). Part of the public concern appears to involve this interaction and the potential for “infection” of farms with patented material. Unlike other types of technology, living material is arguably unsuitable for patentability not only for ethical and moral reasons, but also for practical reasons of this continuous interaction with the environment. Whether patentability is in fact an effective and ethical reward and incentive for this process is currently the subject of vigorous and spirited public debate.

The characterisation of the public interest through NGO participation in both sides of the debate, and their emergence as key influences upon international policy, is of critical interest in this context. This paper examines the role of NGOs in developing international policy and regulation of GMOs, engaging public trust, and enforcing corporate responsibility. In doing so, and as an alternative to patent protection, a means of effective commercial return for these technologies will be outlined.