

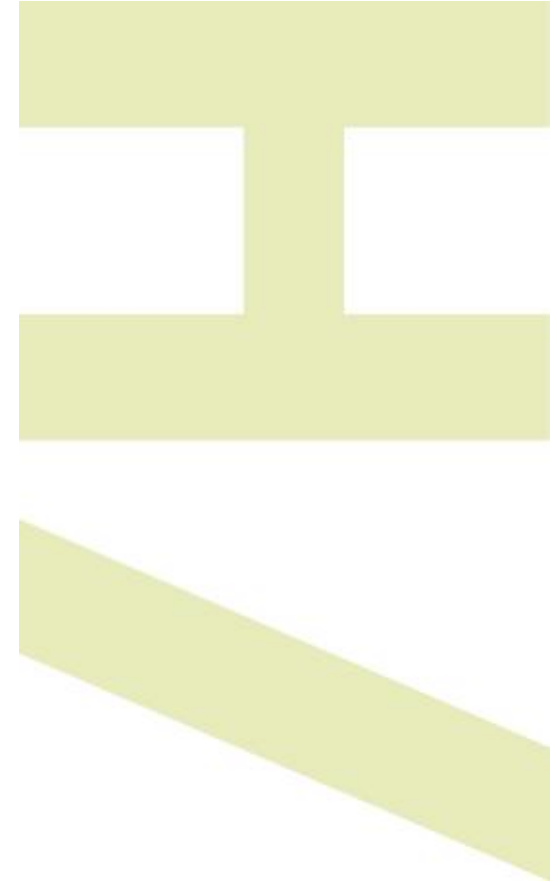
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***CAN THE EU SYSTEM ACCOMMODATE SUSTAINABLE
PATENT LAW AND POLICY?
BETWEEN BIOTECHNOLOGY AND BIODIVERSITY***

The scope of this presentation

- Intersection and inter-relations between:
 - (1) Intellectual property – patents
 - (2) Biotechnology
 - (3) Biodiversity



Patent law and environmental protection

- Difficult and problematic co-existence
- Patent law – purpose
- Exceptions to patent protection
- Difficulties in integrating environmental goals into Intellectual Property Law system

Slide 3

Biotechnology and biodiversity

- Question about potential consequences of biotechnological inventions on biodiversity
- Legislation on:
 - Biotech inventions
 - Biodiversity protection

Slide 4

Biotechnology

- Definition: Article 2, *Convention on Biological Diversity 1992*
 - “Biotechnology means any technical application that uses biological systems, living organisms, or derivatives thereof, to make or modify products or processes for specific use.”
- First cases where patents were granted for inventions involving genetically modified living organisms
- EU Directive on biotech inventions
 - *Directive 98/44/EC of the European Parliament and of the Council of 6 July 1998 on the legal protection of biotechnological inventions*
- Implemented into domestic legislation of the EU MS
- Implemented into the EPC

Biodiversity/ biological diversity

- Definition: Article 2, *Convention on Biological Diversity 1992*
 - “the variability among living organisms from all sources, *inter alia*, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part: this includes diversity within species, between species and of the ecosystems.”
 - Also called: “a reservoir of useful or potentially useful biological resources” (B.G. Guilloux, 2009).

Specific concerns about biodiversity affected by biotech inventions

- EPO BoA – *Onco-mouse* decision (1990)
- EPO BoA – *Plant Genetic Systems* decision (1995)

Patents – biodiversity – biotechnology

- **Patent system** and its failure to accommodate concerns about **biodiversity protection** into the system of **biotech inventions**
- Justification of this inadequacy
- The way in which it can be corrected

Slide 8

Thank you for your attention!!

Slide 9

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