Session 3-2: The Regulatory Process and Technology Access for Specialty Crops

Q&A

Moderator: David Baltensperger
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Erik Mirkov (Texas A&M University, College Station): Alan, what is your opinion on not only the September 25 Monsanto patent but also the one issued December 18? Do you see coexistence with the Syngenta patents?

Alan Bennett: I think I know the Syngenta patents you are talking about—I thought they had expired. They originally came from Washington University, I think. I'm not sure about coexistence. Sorry.

Roger Beachy (Global Institute for Food Security, Saskatoon): What chance is there that Monsanto will do a "Cohen and Boyer"?

Bennett: Little, but I think they should be encouraged to.

Beachy: Absolutely. That's the point. This is terribly important. It's an enabler just like the "Cohen and Boyer" patent was. That's what the industry needs. Are we going to play in sandboxes or are we going to play in the big field?

Bennett: Yes, the landscape has changed so much. The intellectual property portfolio—key patents that Monsanto had—were really important in establishing them in the industry in a very strong position. Clearly, those tools are not valuable in the same way today, and enabling an entire industry might be to everyone's advantage, including Monsanto's.

Tom Redick (Global Environmental Ethics Council, Clayton): Scott, a question mostly for you. I'm the guy who started major market approval as a big problem for all the sick sisters of biotech and we are starting to talk about whether certain closed-loop[1] identity-preserved production models could work for, say, a specialty crop. I'm wondering, is there a way we could carve out a corner of the world where we could grow it in a confined district in a confined production system so that we don't interfere with the markets overseas?

Scott Thenell: Tom, you are probably right that it can be done with a considerable amount of planning, and reassurance for trading partners that it is robust. Also from a regulatory approval standpoint, yes, if you can develop a robust identity-preservation closed-loop system, then I think you can.

Tim Hall (Texas A&M University, College Station): It was mentioned that the Monsanto *Agrobacterium* patent was very strong and very solid for dicot crops. Do you think it is equally strong for monocots, considering that it has been found to be extremely good in rice, for example?

Bennett: That particular patent is specific for dicots. Other strong monocot patents exist as well, but this is not one of them.

Hall: For monocots? *Agrobacterium*-mediated? When you say there are other systems, other patents, do you mean including *Agrobacterium*-mediated?

Bennett: Yes, *Agrobacterium*-mediated transformation in monocots—strong patents exist.

Peter Schuerman: One of the questions we get a lot within the university is about whether or not a patent might be a problem. It's very easy to think about patents as problems rather than as opportunities. Universities got into the patent system about 100 years too late. We've been innovating the whole time, but better late than never. A patent is an opportunity for a conversation. A kind of conversation that universities aren't used to having. If what you want to do infringes on someone else's rights, you can talk to that someone else and say, "Here is how it's beneficial to both of us," then it is not a problem, it's an opportunity.

Bennett: That's a good point. Dennis Gonsalves[2] has experienced that. When he had a product, it was clear what it was, he went to the patent owners: not a problem. But I'm going to refer to one of your slides, Peter, where there was uncertainty for the investigator— uncertainty as to whether something would work out or not. "Should I even start down that path?" That's the other issue with patent portfolios: they cloud the future.

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[1]Closed loop: see pages 223, 225 and 256.
[2]Pages 37–46.