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JOHN INNES CENTRE PATENT: LANDMARK CASE ON BENEFORTE BROCCOLI PATENT

Scientific innovation in plant breeding was given a boost this week when a ruling by the European Patent Office confirmed the patent on John Innes Centre's Beneforte Broccoli is valid and enforceable.

Professor Richard Mithen, currently Acting Director at the Institute of Food research (IFR), created the conventionally bred new broccoli variety while working at the John Innes Centre in during the 1990's. It is rich in glucoraphanin, a substance which research suggests could help to maintain cardiovascular health and to reduce the risk of cancer. Under the name, Beneforté Broccoli, it is now available in supermarkets in UK, Europe and USA.

JIC's patent on the glucoraphanin-rich broccoli has been the subject of a legal case in the European Patent Office for several years. The case focused on whether plants, such as this new type of broccoli, could be patented under European patent law, which excludes patents on methods that are "essentially biological processes".

This week's decision by the EBA, that plants that are or can be made by "essentially biological processes" should not be excluded from patentability, means that the patent claims on JIC's glucoraphanin-rich broccoli are valid.

The JIC's 'Broccoli-case' has been seen as a test case in intellectual property law in the field of plant science and the decision represents an important step towards encouraging much needed innovation in agriculture and horticulture in the European Union.

JIC Director, Prof Dale Sanders said:

"This is great news as it gives much needed clarity on the scope of patent protection in the European Union for plants and plant products.

"By validating a patent of this kind the EBA's decision sends a clear message to the scientific community that their hard work and investment in developing new and scientifically improved plant varieties can be protected. This decision will help scientists attract the investment needed to make their innovations available to consumers. Without these patents in place there would be no incentive for the agricultural and food industries to invest in the costly but necessary product development, market research and consumer tests of the products before taking them to market. "

Certain aspects of plant breeding are rightly excluded from patentability and adequate protection can be gained under Plant Breeder's Rights systems. For example, making new varieties by routine crossing and selection among relatively similar plants is appropriately covered by plant breeders' rights.

Professor Mithen's work developing Beneforte Broccoli, making crosses and selecting horticulturally useful progenies between two plants that are at extreme ends of very diverse plant types was infinitely more challenging. These more complex innovations in plant science, which overcome substantial technical challenges rightly deserve patent protection but have been left in uncertain territory until this week's decision.

Notes to editors

1. For further information please contact:

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2. The John Innes Centre works through its subsidiary Plant Bioscience Ltd (PBL) to patent JIC's scientific discoveries.

PBL's mission is to protect and bring into public use the innovations generated by public research organisations particularly, though not exclusively, in the plant sciences. PBL therefore regularly files patents on such innovations in plant science. The information about these breakthroughs is made public via the scientific publications of public researchers that created them and also by the publication of the patent applications in the normal course of patent prosecution. PBL then licenses the patented inventions to business partners who bring in the substantial and long-term investment and development capabilities that are inevitably necessary to bring early stage public-research innovations to market.

When farmers, food producers and retailers adopt those innovations for the value they deliver, PBL and its academic and commercial partners each have the opportunity to receive a share of the benefits, enabling more research to be carried out for the generation of new innovations.

3. More information about Beneforté Broccoli and Prof Richard Mithen's ongoing research at the Institute of Food Research can be found at www.superbroccoli.info and <http://ifr.ac.uk/research/food-health/>
4. Beneforté Broccoli is a trade mark of Monsanto Company who have a licence from PBL, and who have bred the Beneforté Broccoli varieties that are cultivated by vegetable farmers.

Ends.