



J.E.M. AG Supply V Pioneer Hi Bred
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Issue

Whether sexually reproduced plants resulting from plant breeding are within the statutory language of sec 101?

Holding

Yes, because sexually reproduced plants are patentable subject matter under Sec 101.

Rule

1. Sec 101 Whoever invents or discovers . . . manufacture, or composition of matter . . . may obtain a patent therefore.
2. Diamond V Chakrabarty

Analysis

The main argument made in Chakrabarty which is also made in this case is that the Congress did not anticipate man made microorganisms or man made and sexually reproduced plants and therefore the terms “composition” and “manufacture” in 101 should be interpreted narrowly. This argument is not acceptable as plant breeders are inventors and sexually reproduced plants squarely fit under the term “manufacture”. The entire purpose of the patent regime is to provide incentive to inventors for their inventions and thereby promote progress of useful arts.

The language used by Congress in Sec 101 is wide and all encompassing and therefore the SC in Diamond V Chakrabarty said that the terms “composition” and “manufacture” should be given widest possible interpretation.

The court says that there is no difference between a chemist producing a composition of matter in his own laboratory and a plant breeder creating new varieties of plants by cross pollination or other methods. The court says that plants naturally occurring are not patentable but new varieties of plants created by man through human ingenuity are definitely patentable.

Another argument against patentability in this case, given by the Petitioner is the fact that Congress by passing PPA and PVPA wanted to exclude plants from the scope of Sec 101. The main reason why PPA was enacted in 1930 was to relax the “written description” requirement so that asexually reproduced plants could satisfy the statutory conditions of patentability. The “utility” patent standards are much more stringent as compared to relative relaxed standards of “novelty” and “obviousness” laid down by PVPA . In event, PVPA created an interim level of protection for sexually reproduced plants that could not yet satisfy the stringent requirements of the utility patent laws. The court said that the main purpose of PPA and PVPA was not to bar the patentability of sexually reproduced plants under 101 but to create alternative system of patentability which can co-exist with “utility” system . PPA and PVPA just created separate rights and obligations from the utility system.