

Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

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J. E. M. AG SUPPLY, INC., DBA FARM ADVANTAGE,
INC., ET AL. *v.* PIONEER HI-BRED
INTERNATIONAL, INC.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE FEDERAL CIRCUIT

No. 99–1996. Argued October 3, 2001—Decided December 10, 2001

Respondent Pioneer Hi-Bred International, Inc. (Pioneer), holds 17 utility patents issued under 35 U. S. C. §101 that cover the manufacture, use, sale, and offer for sale of its inbred and hybrid corn seed products. Pioneer sells its patented hybrid seeds under a limited label license that allows only the production of grain and/or forage, and prohibits using such seed for propagation or seed multiplication or for the production or development of a hybrid or different seed variety. Petitioner J. E. M. Ag Supply, Inc., doing business as Farm Advantage, Inc., bought patented seeds from Pioneer in bags bearing the license agreement and then resold the bags. Pioneer filed this patent infringement suit against Farm Advantage and distributors and customers of Farm Advantage (collectively Farm Advantage or petitioners). Farm Advantage filed a patent invalidity counterclaim, arguing that sexually reproducing plants, such as Pioneer’s corn plants, are not patentable subject matter within §101. Farm Advantage maintained that the Plant Patent Act of 1930 (PPA) and the Plant Variety Protection Act (PVPA) set forth the exclusive statutory means for protecting plant life because these statutes are more specific than §101, and thus each carves out subject matter from §101 for special treatment. The District Court granted Pioneer summary judgment. Relying on this Court’s broad construction of §101 in *Diamond v. Chakrabarty*, 447 U. S. 303, the District Court held that §101 clearly covers plant life. It also held that in enacting the PPA and the PVPA, Congress neither expressly nor implicitly removed plants from §101’s subject matter. In particular, the District Court noted that Congress did not implicitly repeal §101 by passing the more specific PVPA be-

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cause there was no irreconcilable conflict between the two statutes. The Federal Circuit affirmed.

Held: Newly developed plant breeds fall within the subject matter of §101, and neither the PPA nor the PVPA limits the scope of §101's coverage. Pp. 4–21.

(a) In approaching the question presented here, this Court is mindful that it has already recognized that §101's language is extremely broad and has concluded that living things are patentable under that provision, *Chakrabarty, supra*, at 308, 313, 315. Since 1985, the Patent and Trademark Office (PTO) has had an unbroken practice of conferring utility patents for plants. Nonetheless, petitioners argue that the PPA and the PVPA are the exclusive means of protecting new varieties of plants, and so awarding utility patents for plants upsets the scheme contemplated by Congress. Pp. 4–6.

(b) Neither the PPA's original nor its recodified text indicates that its protection for asexually reproduced plants was intended to be exclusive. The 1930 PPA amended the general patent provision to protect only the asexual reproduction of a plant. And Congress' 1952 revision, which placed plant patents into a separate chapter 15, was only a housekeeping measure that did not change the substantive rights or the relaxed requirements for such patents. Plant patents under the PPA thus continue to have very limited coverage and less stringent requirements than §101 utility patents. Importantly, chapter 15 nowhere states that plant patents are the exclusive means of granting intellectual property protection to plants. The arguments that petitioners advance for why the PPA should preclude assigning utility patents for plants are unpersuasive because petitioners fail to take account of the forward-looking perspective of the utility patent statute and the reality of plant breeding in 1930. Pp. 6–13.

(c) That the PVPA specifically authorizes limited patent-like protection for certain sexually reproduced plants does not evidence Congress' intent to deny broader §101 utility patent protection for such plants. While the PVPA creates a comprehensive statutory scheme with respect to its particular protections and subject matter, giving limited protection to plant varieties that are new, distinct, uniform, and stable, nowhere does it restrict the scope of patentable subject matter under §101. The PVPA contains no statement of exclusivity. Furthermore, at the time the PVPA was enacted, the PTO had already issued numerous utility patents for hybrid plant processes, which reaffirms that such material was within §101's scope. Petitioners also err in arguing that the PVPA altered §101's subject-matter coverage by implication. Repeal by implication requires that the earlier and later statutes be irreconcilable, *Morton v. Mancari*, 417 U. S. 535, 550. The differences in the requirements for, and cover-

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age of, utility patents and PVPA plant variety certificates, however, do not present irreconcilable conflicts because the requirements for a §101 utility patent are more stringent than those for a PVP certificate, and the protections afforded by a utility patent are greater than those afforded by a PVP certificate. Petitioners' suggestion that dual protection cannot exist when statutes overlap and purport to protect the same commercially valuable attribute or thing is rejected as well. This Court has given effect to two overlapping statutes, so long as each reaches some distinct cases, see *Connecticut Nat. Bank v. Germain*, 503 U. S. 249, 253, and it has allowed dual protection in other intellectual property cases, see, e.g., *Kewanee Oil Co. v. Bicron Corp.*, 416 U. S. 470, 484. In this case, many plant varieties that are unable to satisfy §101's stringent requirements might still qualify for the PVPA's lesser protections. Pp. 13–20.

(d) The PTO has assigned utility patents for plants for at least 16 years, and there has been no indication from either Congress or agencies with expertise that such coverage is inconsistent with the PVPA or the PPA. Congress has not only failed to pass legislation indicating that it disagrees with the PTO's interpretation of §101; it has even recognized the availability of utility patents for plants. P. 20.

200 F. 3d 1374, affirmed.

THOMAS, J., delivered the opinion of the Court, in which REHNQUIST, C. J., and SCALIA, KENNEDY, SOUTER, and GINSBURG, JJ., joined. SCALIA, J., filed a concurring opinion. BREYER, J., filed a dissenting opinion, in which STEVENS, J., joined. O'CONNOR, J., took no part in the consideration or decision of the case.