Information on Plant Variety Patents

- What is a plant variety patent? [1]
  Plant variety patent is a title of protection certifying the priority of the variety, the authorship of the breeder and the exclusive right of the patent owner to use the variety. The patent provides legal protection for the new plant variety on the territory of the Republic of Moldova, and the scope of that protection shall be determined by the sum of essential characteristics of the variety, as specified in the official description thereof.

  A plant variety patent may be issued only by AGEPI and is essentially different from a plant variety certificate issued by the State Commission after testing the variety on the agronomic value. The certificate confirms only the paternity of the breeder or his authorship of the new variety, while the patent grants the owner the exclusive right to use the patented variety and to prohibit third parties any use thereof without his authorization.

  Close [1]

- Who can get a plant variety patent? [1]
  The right in a patent shall belong to a breeder or his successor-in-title.

  A person who has bred, discovered or improved a variety shall be deemed the breeder thereof.

  Where a variety has been jointly bred, discovered and developed by two or more breeders, the right to the patent shall belong to them jointly or their successors in title.

  If two or more persons have created or discovered and developed the same variety independently of each other, the right to a patent shall belong to the person who first filed the patent application with AGEPI.

  The right to a patent for a variety bred or discovered and improved by a breeder in the accomplishment of his duties, in the performance of an employment contract or research contract shall belong to the employer where the contract between said employer and the breeder has not stipulated otherwise, the breeder having the right to commensurate remuneration as prescribed by the contract. The amount of remuneration shall be determined depending on the profit obtained as a result of use of the variety during the term of the patent and on the value of the variety, and may not be less than 15 per cent of this profit obtained as a result of use of the variety, including receipts from the sale of licenses. Also, in this instance the employee shall have a preferential right to obtain a non-exclusive license to use the variety.

  A variety shall be deemed to have been bred in the accomplishment of his duties if, in breeding the variety, the breeder:

    - performed duties entrusted to him by virtue of his position;
    - performed duties specifically entrusted to him for the purpose of breeding a new variety;
    - made use of material or financial means made available to him by the employer or a person who commissioned the breeding of the variety, as well as of knowledge and expertise gained in the performance of professional duties.

  Where the employer, within 60 days of having been notified by the breeder of the breeding of the new variety, has not filed an application for a patent or has not assigned his right to file an application to another person, or has not instructed the breeder in writing to keep the newly bred variety secret, the breeder shall acquire the right to file a patent application and to obtain a patent in his own name. The employer shall in that case have a preferential right to be granted a non-exclusive license to use the variety.

Close [1]

- What are the rights of the plant variety patent owner? [1]
  Patent owner may exercise his rights after AGEPI has granted him a plant variety patent.

  Throughout the term of the patent the owner shall have the exclusive right in the patent and in the plant variety protected by patent, including the right to exploit the variety insofar such exploitation does not prejudice the rights of other patent owners, the right to manage the patent and variety, and the right to prohibit third parties from performing the following acts in relation to the material of the variety or the harvested material of the protected variety without his authorization:

  - breeding or reproduction (for the purposes of propagation);
  - conditioning for the purpose of propagation;
  - offering for sale;
  - selling or other kinds of marketing;
  - exporting;
  - importing;
  - storing for any of the purposes mentioned in items (a) to (f).

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