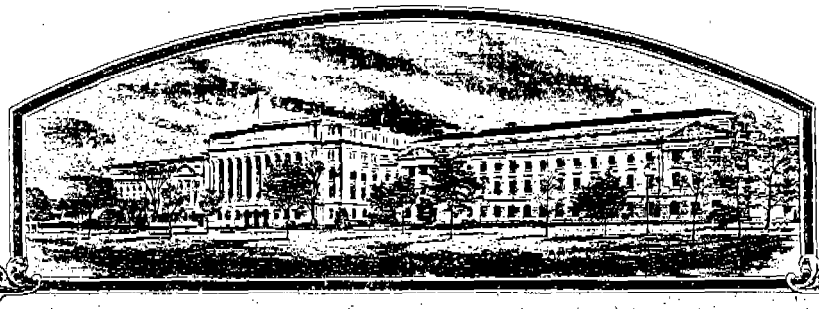

No. 7100096

THE UNITED STATES OF AMERICA

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Ferry-Morse Seed Company

Whereas, THERE HAS BEEN PRESENTED TO THE

Secretary of Agriculture

AN APPLICATION REQUESTING A CERTIFICATE OF PROTECTION FOR AN ALLEGED NOVELVARIETY OF SEXUALLYREPKODUCED PLANT, THE NAME AND DESCRIPTION OF WHICH ARE CONTAINED IN THE APPLICATION AND EXHIBITS, A COPY OF WHICH IS HEREUNTO ANNEXED AND MADE A PART HEREOF, AND THE VARIOUS REQUIREMENTS OF LAW IN SUCH CASES MADE AND PROVIDED HAVE BEEN COMPLIED WITH, AND THE TITLE THERETO 'IS, FROM THE RECORDS OF THE PLANT VARIETY PROTECTION OFFICE, IN THE APPLICANT(S) 'INDICATED IN THE SAID COPY; AND WHEREAS, UPON DUE EXAMINATION MADE, THE SAID APPLICANT(S) IS' (ARE) ADJUDGED TO BE ENTITLED TO A CERTIFICATE OF PLANT VARIETY PROTECTION UNDER THE LAW.

NOW, THEREFORE, THIS CERTIFICATE OF PLANT VARIETY PROTECTION IS TO GRANT UNTO THE'SAID APPLICANT(S) AND THE SUCCESSORS, HEIRS OR' ASSIGNS OF THE SAID APPLICANT(S) FOR THE TERM OF *seventeen* YEARS FROM THE DATE OF THIS GRANT, SUBJECT TO THE PAYMENT OF THE REQUIRED FEES AND PERIODIC REPLENISHMENT OF VIABLE BASIC SEED OF THE VARIETY IN A PUBLIC REPOSITORY AS PROVIDED BY LAW, THE RIGHT TO EXCLUDE OTHERS FROM SELLING THE VARIETY, OR OFFERING IT FOR SALE, OR REPRODUCING IT, OR IMPORTING IT, OR EXPORTING IT, OR USING IT IN' PRODUCING A HYBRID OR DIFFERENT VARIETY THEREFROM. TO THE EXTENT PROVIDED BY THE PLANT VARIETY PROTECTION ACT (84 STAT. 1542; AS AMENDED, 7 U.S.C. 2321 ET SEQ.)

LETTUCE

Vanmax

In Testimony Whereof, *I have hereunto set my hand and caused the seal of the* Plant Variety Protection Office *to be affixed at the City of* Washington *this* tenth *day of* April *in the year of our Lord one thousand nine hundred and* seventy three.

Attest:

Commissioner
Plant Variety Protection Office
Grain Division
Agricultural Marketing Service

Secretary of Agriculture

ORM GR-470
(4-12-71)

UNITED STATES DEPARTMENT OF AGRICULTURE
CONSUMER AND MARKETING SERVICE
GRAIN DIVISION
HYATTSVILLE, MARYLAND 20782

FORM APPROVED
OMB NO. 40-R3712

APPLICATION FOR PLANT VARIETY PROTECTION CERTIFICATE

INSTRUCTIONS: *See Reverse.*

1. VARIETY NAME OR TEMPORARY DESIGNATION: Vanmax	2. KIND NAME: Head Lettuce	FOR OFFICIAL USE ONLY PVPO NUMBER: 7196
3. GENUS AND SPECIES NAME: Lactuca sativa	4. FAMILY NAME (*Botanical*): Compositae 5. DATE OF DETERMINATION: 14 January 1970	FILING DATE: 4/28/71 TIME: 9:30 A.M. FEE RECEIVED: $50.00 CHARGES:
6. NAME OF APPLICANT(S): Ferry-Morse Seed Company Dr. George C. Emery, Breeder	7. ADDRESS (*Street and No. or R.F.D. No., City, State, and ZIP Code*): P. O. Box 100 111 Ferry-Morse Way Mountain View, California 94040	8. TELEPHONE AREA CODE AND NUMBER: (415) 967-6973
9. IF THE NAMED APPLICANT IS NOT A PERSON, FORM OF ORGANIZATION: (*Corporation, partnership, association, etc.*): Corporation	10. STATE OF INCORPORATION: California	11. DATE OF INCORPORATION: 7 April 1969

12. Name and mailing address of applicant representative(s), if any, to serve in this application and receive all papers:

13. CHECK BOX BELOW FOR EACH ATTACHMENT SUBMITTED:

- [X] 12A. Exhibit A, Origin and Breeding History of the Variety (*See Section 52, P.L. 91-577*)
- [X] 12B. Exhibit B, Botanical Description of the Variety
- [X] 12C. Exhibit C, Objective Description of the Variety
- [X] 12D. Exhibit D, Data Indicative of Novelty
- [X] 12E. Exhibit E, Statement of the Basis of Applicant's Ownership

The applicant declares that a viable sample of basic seed of this variety will be deposited upon request before issuance of a certificate and will be replenished periodically in accordance with such regulations as may be applicable. (*See Section 52, P.L. 91-577*).

14A. Does the applicant(s) specify that seed of this variety be sold by variety name only as a class of certified seed? (*See Section 83(a), P.L. 91-577*) (*If "Yes," answer 14B and 14C below.*) [ ] YES [X] NO

14B. Does the applicant(s) specify that this variety be limited as to number of generations? [ ] YES [ ] NO

14C. If "Yes," to 14B, how many generations of production beyond breeder seed?

Applicant is informed that false representation herein can jeopardize protection and result in penalties.

The undersigned applicant(s) of this sexually-reproduced novel plant variety believes that the variety is distinct, uniform, and stable as required in Section 41 and is entitled to protection under the provisions of Section 42 of the Plant Variety Protection Act (P.L. 91-577).

April 16, 1971 (DATE) — George C. Emery (SIGNATURE OF APPLICANT)

April 16, 1971 (DATE) — Ferry-Morse Seed Company by: [illegible], Vice President (SIGNATURE OF APPLICANT)

Variety: Vanmax

Exhibit A: Origin and Breeding History of the Variety

Vanmax originated as a single plant selection from Vanguard. The plant was selected for early maturity and large head size in the spring of 1961 in Dome Valley, near Yuma, Arizona.

In a Winter 1969-70 Imperial Valley trial the S_1 progeny was outstanding for its increased earliness, head size, and improved uniformity compared to Vanguard, but also lighter in color. The decision to increase the line as a possible new variety was made on January 14, 1970.

Remnant seed of the original single plant selection was planted to a 400 foot row for increase in the summer, 1970. No offtypes were observed; the line was highly uniform for plant and bolting type under seed production conditions. A trial planting in the winter 1970-71 in the Imperial Valley indicated that the improved earliness and head size was maintained in comparison with Vanguard, but that the slight variation in heading ability innate to Vanguard under certain environmental conditions still persisted in Vanmax, though to a lesser degree.

Variety: Vanmax

Exhibit A: Origin and Breeding History of the Variety

Variety: Vanmax

Exhibit B: Botanical Description of the Variety

Seedling growth is medium rapid and vigorous. Early growth is as a rosette. Enfolding of the center leaves to form a head begins three to four weeks before marketable maturity is reached. As the head begins to firm the glossy dark green plants take on a dull medium olive-green hue. Resistance to bolting is moderate.

The mature plant is a crisphead type. The frame is medium large with frame leaves lying parallel to the ground. Wrapper leaves are medium high and loosely arranged around the head; the mature head is somewhat exposed (more so than Vanguard). Mature foliage color is a dull slightly yellowish olive-green (slightly lighter than Vanguard). Leaves are thick, appearing leathery, with smooth to undulated margins and smooth to slightly puckered surface.

The globe-shaped head is slightly flattened on the base and top, has a 6 inch diameter in cross-section, a medium core diameter (1¼ inches) and length (1 1/8 inches). The base is medium smooth; petioles are slightly ribby. Head weight is medium heavy.

The seed stalk is uniformly medium in height (contrasting to a variable medium to tall height for Vanguard) with a large, heavy panicle with very large seed production.

Seeds are black, almond-shaped, pointed at one end, with slight longitudinal furrows.

Variety: Vanmax

Exhibit B: Botanical Description of the Variety

FORM GR-471
(4-3-72)

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE
GRAIN DIVISION
HYATTSVILLE, MARYLAND 20782

EXHIBIT C

OBJECTIVE DESCRIPTION OF VARIETY
(LETTUCE)

INSTRUCTIONS: See reverse.

NAME OF APPLICANT(S)
FERRY-MORSE SEED COMPANY

ADDRESS (Street and No. or R.F.D. No., City, State, and ZIP Code)
P. O. Box 100
111 Ferry-Morse Way
Mountain View, California 94040

FOR OFFICIAL USE ONLY
PVPO NUMBER
297 - 1 - 7196
VARIETY NAME OR TEMPORARY DESIGNATION
VANMAX

Place the appropriate number that describes the varietal character of this variety in the boxes below.

1. PLANT TYPE: [4 3]
10 = CUTTING (Leaf) 20 = STALK
50 = BUTTERHEAD 60 = LATIN
70 = OTHER (Specify) _____

30 = COS
31 = SELF-CLOSING GROUP
32 = LOOSE-CLOSING GROUP

40 = CRISPHEAD
41 = IMPERIAL GROUP
42 = GREAT LAKES GROUP
43 = VANGUARD
44 = NEW YORK GROUP

2. SEED COLOR: [2]
1 = WHITE 2 = BLACK 3 = YELLOW

3. ANTHOCYANIN: [1]
1 = ABSENT 2 = PRESENT

4. LEAF CONTAINING ANTHOCYANIN: [4]
1 = COVERED 2 = SPOTTED 3 = ALONG MARGIN 4 = ABSENT 5 = OTHER (Specify) _____

5. LEAF SURFACE TEXTURE: [1]
1 = SMOOTH 2 = BLISTERED

6. LEAF SURFACE REFLECTANCE: [1]
1 = DULL 2 = GLOSSY 3 = OTHER (Specify) _____

7. LEAF MARGIN: [2]
1 = STRAIGHT 2 = WAVY
3 = CURLED

1 [illegible]
1 = ENTIRE 2 = DENTATE 3 = INCISED
4 = DEEPLY INCISED 5 = OTHER (Specify) _____

8. LEAF SHAPE: [1]
1 = ROUNDED 2 = POINTED

[1]
1 = BROADER THAN LONG 2 = LONGER THAN BROAD 3 = OTHER (Specify) _____

9. LEAF COLOR: (See reverse.) [7]
1 = RED 2 = REDDISH-BROWN 3 = YELLOW 4 = YELLOWISH-GREEN 5 = GREYISH-GREEN
6 = BLUE-GREEN 7 = DARK-GREEN 8 = VERY DARK GREEN

10. HEADS: [1]
1 = SPHERICAL 2 = FLATTENED 3 = ELONGATE
4 = POINTED 5 = NON-HEADING

11. PLANT SIZE: (See reverse.) [3]
1 = SMALL 2 = MEDIUM 3 = LARGE

12. CULTURE: [2]
1 = SUMMER CROP 2 = WINTER CROP 3 = NOT SPECIFIC 4 = UNDER GLASS 5 = OTHER (Specify) _____

13. SIZE OF 10-DAY OLD SEEDLING GROWN UNDER CONSTANT LIGHT (Growth Chamber) **AT 25° C.:** (Place a zero in first box (i.e. [0 2]) when size is 9 mm. or less.)
[ ][ ] mm. LENGTH OF SEEDLING [ ][ ] mm. LENGTH OF COTYLEDON [ ][ ] mm. WIDTH OF COTYLEDON

14. DISEASE RESISTANCE TO: (~~Enter zeroes in box(es) where there is no special disease resistance.~~)
[1] 1 = TIPBURN [1] 2 = MOSAIC [1] 3 = DAMPING OFF [1] 4 = DOWNY MILDEW
[1] 5 = SCLEROTINIA ROT [0] 6 = BROWN BLIGHT [0] 7 = BIG VEIN [ ] 8 = OTHER (Specify) _____

15. OUTLINE THE FOURTH LEAF: (For standardization purposes, the fourth leaf should be taken from a 20-day old plant grown under constant light.)

* 0 - Not Tested, 1 - Susceptible, 2 - Resistant

FORM GR-471 (REVERSE)

16. INDICATE WHICH VARIETY MOST CLOSELY RESEMBLES THAT SUBMITTED:

CHARACTER	NAME OF VARIETY
Leaf color	
Leaf pigmentation	
Leaf shape	
Plant size	
Head size	

VARIETY	NO. OF DAYS TO HEAD MATURITY UNDER WINTER CROPPING	LOCATION	NO. OF DAYS TO HEAD MATURITY UNDER SUMMER CROPPING	LOCATION	NO. OF DAYS TO SEED STALK EMERGENCE UNDER SUMMER CROPPING	LOCATION
Submitted						
Similar						
Name of similar variety						

INSTRUCTIONS

GENERAL: The following publications may be used as a reference aid for completing this form:

1. C. M. Rodenburg, 1960, Varieties of Lettuce, An International Monograph, Institunt Voor de Veredeling van Tuinbouwgewassen, Wageningen, Holland.

2. L. L. Morse, 1930, Field Notes on Lettuce, published by Ferry-Morse Seed Co.

LEAF COLOR: Nickerson's or any recognized color fan may be used to determine the leaf color of the described variety. The following lettuce varieties may be used as a guide to identify the eight colors listed on the form.

Color	Variety
Red	"Salad Trim"
Reddish-brown	"Ruby"
Yellow	"Salad Bowl"
Yellowish-green	"Oakleaf"
Greyish-green	"White Boston"
Bluish-green	"Bibb"
Dark-green	"Imperial" group
Very dark green	"Deer Tongue"

PLANT SIZE: The following varieties may be used as a guide to identify the plant type size:

TYPE	COMPARABLE VARIETIES		
	SMALL	MEDIUM	LARGE
Cutting (leaf)	Boston-Curled	Prize Head	Grand Rapids
Stalk (stem)	Celtuce	--	--
Cos	Express	Parris Island	Giant White
Crisphead	Mignonette	Hanson (Merit)	Climax
Butterhead	Tom Thumb	Big Boston	Mammoth Butter
Latin	Sucrine	Creole	Deer Tongue

Variety: Vanmax

Exhibit D: Data Indicative of Novelty

Vanmax most closely resembles the variety Vanguard. The distinguishing features of Vanmax compared to Vanguard include:

1. slightly earlier marketable maturity.
2. slightly larger average frame and head size.
3. slightly more exposed head.
4. slightly lighter mature plant color.
5. under commercial lettuce production conditions a lower frequency of non-heading variants.
6. a shorter, less variable in height, seed stalk.

EXHIBIT "E"

Plant Variety Protection Application

No: 7196

ASSIGNMENT

I, GEORGE C. EMERY, agree and hereby do transfer and assign to FERRY-MORSE SEED COMPANY all of my rights, title, and interest in and to that certain variety namely, LETTUCE - VANMAX, for which application for Plant Variety Protection Certificate has been filed. This agreement shall be binding on my administrators, successors and assigns.

In Witness Whereof, I have executed this agreement this 11 day of January, 1973.

BREEDER

George C. Emery

12/72

ASSIGNMENT OF INTELLECTUAL PROPERTY

WHEREAS, HARRIS MORAN SEED COMPANY, a corporation duly organized and existing under the laws of the State of Maryland, having its principal place of business at 4511 Willow Road, Suite 3, Pleasanton, California 94588 ("**Assignor**"), has, pursuant to that certain Bill of Sale and Assignment dated as of June 30, 1997, transferred to FERRY-MORSE SEED COMPANY (CALIFORNIA), a corporation duly organized and existing under the laws of the State of California, having its principal place of business at 555 Codoni Avenue, P.O. Box 4938, Modesto, California 95352-4938 ("**Assignee**"), all of the intellectual property Assignor had adopted, used and was using as of the effective date of this Assignment, including without limitation, the intellectual property represented by the United States Plant Variety Protection Certificates of Assignor identified on Schedule A hereto (collectively, the "**Property**"); and

WHEREAS, on the date hereof, Assignee has changed its name to "Harris Moran Seed Company";

NOW, THEREFORE, effective by this instrument as of the close of business on June 30, 1997, and for good and valuable consideration, receipt of which is hereby acknowledged, Assignor hereby assigns to Assignee any and all right, title and interest worldwide in and to the Property and any and all recordations thereof, including, but not limited to, the use of the Property in any manner, all benefit of any and all prior use of the Property, and any and all rights to initiate claims or proceedings for past, present or future infringements of Assignor's rights, title and interest in and to the Property.

Dated: as of June 30, 1997

HARRIS MORAN SEED COMPANY

By: _____
Philip Ashcraft, President

NEWY01A:171511:1:09/26/97
26757-1

A490370

ENDORSED
FILED
In the office of the Secretary of State
of the State of California

JUN 30 1997

BILL JONES, Secretary of State

CERTIFICATE OF AMENDMENT

OF THE

ARTICLES OF INCORPORATION

OF

FERRY-MORSE SEED COMPANY (CALIFORNIA)
(a California corporation)

To the Secretary of State
State of California

Pursuant to the provisions of the General Corporation Law of the State of California, the undersigned officers of FERRY-MORSE SEED COMPANY (CALIFORNIA), a California corporation (the "Corporation"), do hereby certify as follows:

1. The name of the Corporation is Ferry-Morse Seed Company (California).

2. Article One of the Corporation's Articles of Incorporation, which relates to the name of the Corporation, is hereby amended in its entirety to read as follows:

One. The name of this Corporation is:
HARRIS MORAN SEED COMPANY.

3. The amendment herein provided for has been approved by the Corporation's Board of Directors.

4. The amendment herein provided for was approved by the written consent of the Corporation's sole shareholder in accordance with the provisions of Section 902 of the California General Corporation Law. The total number of outstanding shares of the corporation is 5,000.

IN WITNESS WHEREOF, each of the undersigned does hereby declare under the penalty of perjury that he or she signed the foregoing Certificate of Amendment as of June 30,

1997, in the Town of Modesto, State of California, in the official capacity set forth beneath his or her signature and that the statements set forth in this certificate are true of his or her own knowledge.

Yves Queste, President

Helen Andritsakis, Secretary

NEWY01A:163794:1:06/25/97
26757-1

A493976

State of California

SECRETARY OF STATE

OFFICE OF THE SECRETARY OF STATE

I, *BILL JONES*, Secretary of State of the State of California, hereby certify:

That the attached transcript has been compared with the record on file in this office, of which it purports to be a copy, and that it is full, true and correct.

IN WITNESS WHEREOF, I execute this certificate and affix the Great Seal of the State of California this

JUN 30 1997

THE GREAT SEAL OF THE STATE OF CALIFORNIA
EUREKA

Bill Jones

Secretary of State

SEC/STATE FORM CE-107 (REV. 4/97)

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