



Plant Variety Protection Office (PVPO)



Examination Process

How the PVPO Examines Applications

Plant variety protection is used by plant breeders as an important marketing tool that protects their innovation. The AMS Plant Variety Protection Office (PVPO) provides intellectual property rights protection to breeders of varieties of seed propagated and asexually reproduced plants that are new, distinct, uniform, and stable. Based on the Plant Variety Protection Act and in compliance with the International Union for the Protection of New Varieties of Plants (UPOV), we examine new variety characteristics in order to grant certificates that protect varieties for 20 years (25 years for woody vines and trees).

Examination

The examination of the new variety is started after the ST-470 and Exhibit forms are reviewed for completeness and fees are processed.

If the Examiner finds that necessary data or statements are unclear, conflicting, incomplete, or missing, or that the variety does not appear distinct from one or more known varieties, the applicant's representative will be contacted for the needed answers, clarification, statements, or data. If no acceptable response to the examiner's requests is received, the examination cannot continue. Continued failure to respond will be seen as abandonment of the application.

Breeding History

During the examination process, the breeding history provided in the ST-470 Exhibit A will be reviewed for:

- Development of the variety including any hybridization, mutation, or genetic manipulation events
- Genealogy of the variety
- Intellectual Property protections on the applicant variety or stock plants
- Breeding details including the stages and methods used and selection criteria

Newness

Not sold commercially or sold for less than a year in US or less than 4 years Internationally.

PVPO examiners review the application to ensure all information has been provided to start the examination and to verify that the variety has not been commercialized and sold within one year in the United States or four years Internationally. This is a critical step because if the variety has already been sold and does not meet this requirement, it is ineligible for protection.

Distinctness

Distinguishable from any other publicly known variety.

Confirming the distinctness claimed by the applicant in Exhibit B includes a search to establish that the new variety is different in some way from all other known varieties:

- Database Search: Uses the ePVP database to compare the applicant variety to other existing varieties
- Manual Literature Search: Includes research into scientific papers and other countries' databases

Uniformity

Any variations are describable, predictable, and commercially acceptable.

In addition to distinctness, the variety must also be uniform and stable. Uniformity data is provided on the Exhibit A Origin and Breeding History Form. The applicant must provide a statement and supporting data to show that the new variety is uniform with minimal variants observed. Applicants provide the level of variability in quantitative characteristics of the variety. Commercially acceptable variability is allowed for variant plants that are observed. These variants must be described in type and frequency for the examiner's consideration.

Stability

When reproduced, the variety will remain unchanged from the described characteristics.

Stability of the variety is the last criterion of the examination. This is also provided on the Exhibit A Origin and Breeding History Form. The applicant must provide a statement and supporting data to demonstrate that the new variety is stable enough to be reproduced with a high percentage of confidence. Most applicants submit a statement of genetic stability showing the number of cycles of seed reproduction for which the variety has remained unchanged in all distinguishing characteristics.

Contact Information

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