

Thomas, Bernadette - AMS

From: jan-martijn.van.dijk@anthura.nl
Sent: Tuesday, July 31, 2012 3:43 AM
To: AMS - PVP@mail
Cc: Thomas, Bernadette - AMS; j.deroos@plantum.nl
Subject: Proposed changes in the application forms for USA plant patent
Attachments: pic31123.gif

Dear Sir, Madam,

In accordance of the request of the PVP in the US to the applicant to give their reaction to the proposed changes of the application forms, I send you this email.

The US wants to combine the current forms A (origin and breeding history) B (statement of distinctness) and E (ownership applicant) to one new form.

The reason for the change is mainly to reduce the number of forms, which normally is a good reason.

The problem we face as a breeding company of Anthurium and Orchids (both ornamental crops) with activities or sales besides the USA in another 80 countries, the US PVP Office requests much more information than is recommended by UPOV. Per species the UPOV Guidelines should be followed.

These guidelines already foresee in a detailed description of the main characteristics of a specie. As UPOV is the international standard this will also lead to more harmonisation with other UPOV member states. For us the most favourable option would be if the US would be able to take over DUS reports from other UPOV members. This will save the applicants time and money, will facilitate the work of the PVP Office and will stimulate further international harmonisation.

At this moment the applicant is asked to give the full pedigree of the variety (form A). This is not considered necessary for the distinctness of the variety. Distinctness can only be assessed by comparing the variety to the most resembling varieties by performing a DUS test where all the characteristics have been judged by a qualified examiner.

The preparatory activities that are necessary to obtain the information necessary for the new form ST 470 is estimated to be around 8 hours after which the filling in of the form takes another 1,5 hours. But often there are additional questions for clarification that require another 3 - 4 hours to answer.

Asides from form ST 470 also form C will have to be filled in, which is even more time consuming. In order to obtain the necessary information it is required that a separate test is conducted by our company (or by Naktuinbouw) which takes approximately 6 - 8 hours or 1500 euros if Naktuinbouw has to perform the test. In case the PVP Office does not have the comparison variety in its database then also form C needs to be filled in by the applicant for this comparison variety. Especially for the smaller species (vegetables, ornamental seeds and tubers) the database often does not contain all varieties. The comparison could be facilitated in future if DUS-reports from other UPOV member states could be used for this purpose, which becomes easier since more and more examination offices are publishing their DUS reports publicly on their website. However, comparison will only be possible if variety descriptions follow the same format, which normally would have to be the UPOV Guidelines.

I hope above request is suitable for you to handle as valuable information in the perspective of a breeding company. To serve our customers in the USA it is utmost important that our USA customers have access to new varieties on the market. For that reason the procedure for the application for USA plant patent can be harmonised to the UPOV

guidelines and additionally can become a stronger system because the USA plant patent system will contain more varieties if the procedure will be harmonised to the UPOV guidelines.

I hope to have informed you sufficiently and look forward to future updates in making the plant patent system better.

Kind regards

Jan-Martijn van Dijk (Embedded image moved to
Product Planning Manager - file: pic31123.gif)
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