Plant Varieties. Requirements for Application Documents

Through a single a**pplication** one may apply for a patent for a single plant variety.

The patent application shall be filed on a standard form in 4 copies.

The application shall contain a standard form, a technical questionnaire and annexes.

Upon completion of the application form, the following shall be indicated:

- the information identifying the applicant:
  - the natural person shall indicate in the application: the given name, family name, telephone and facsimile number with the area code, full postal address, postal code of the country, of which citizen he is; in the case of stateless persons – the country code in which his residence is located, and in the absence thereof - the postal code of the country in which his headquarters is located; national applicants shall indicate the unique state identification number (IDNP), specified in the State Register of Population;
  - the legal person shall indicate in the application its official name, the telephone, facsimile number with the area code, its headquarters, postal address and postal code of the country, according to the legislation of which it was established. National applicants shall indicate the unique state identification number (IDNO), assigned by the state registration body;
  - in the case of more than one applicant, the data referred to in letter a) and b) of this subparagraph are indicated for each of them;
- the information identifying the representative/patent attorney, if the applicant has appointed a representative/patent attorney: his given name, family name, full postal address, telephone and facsimile number with the area code;
- the common representative, in the case of more applicants, the representative or the person designated for correspondence: the given name, family name, full postal address, postal code of the country, telephone and facsimile number with the area code;
- the legal ground under which the right to a patent belongs to the applicant;
- the genus and species (botanical taxon), to which the plant variety belongs (common name and Latin name); variety denomination: provisional or definitive;
- the origin of the variety;
- the document of transfer of the right on the variety, where the applicant is not the breeder;
- information relating to any other application filed for the grant of a plant variety patent or permission for the production of variety;
- a declaration by which the breeder certifies that the variety has not been commercially exploited within the meaning of Article 10 of the Law or if it has been exploited – in which countries and on what date;
- the mention whether or not the candidate variety is a genetically modified organism, indicating the supporting documents regarding the genetically modified organisms, where necessary;
- the priority claimed (it is indicated the country or office, date, variety denomination and number of the earlier application);
- the designation of breeders, indicating the given name, family name and country code; for national breeders the data shall include the full address of residence, the unique state identification number (IDNO), the place of work, the position on the date of creation of the variety;
- the list of documents, filed with the AGEPI, including the number of copies and the number of sheets of each copy;
- additional information on the variety, indicating the maturity group, direction of use, cultivation area, specific recommendations;
- the signature of the applicant, clearly indicating the given name and family name, as well as

the date of signature.

If the applicant is a legal person, the application shall be signed by the manager thereof, indicating the position, given name and family name, the date of signature.

If there is more than one applicant, the application shall be signed by all of them.

If filed through a representative/patent attorney, the application may be signed by the representative/patent attorney.

The technical questionnaire must contain:

- the botanical taxon, indicating the genus and species in Latin and the common name of the plant;
- the information identifying the applicant/applicants;
- the proposed denomination of the candidate variety;
- the origin of variety indicating the parents;
- the method of cross-breeding, method of improvement;
- the method of propagating the variety, as the case may be, and breeding scheme;
- the relevant characteristics of the candidate variety, according to the examination rules for the determination whether the variety is distinct, uniform and stable (indicating the numbers in brackets which refer to the characteristics included in the technical questionnaire which correspond to the numbers of characteristics in the Table of characteristics of the culture required, drafted by UPOV; for each characteristic included in the technical questionnaire is indicated the nearest degree of expression of the given characteristic for the culture in question);
- the similar variety or 2-3 varieties known and used in production that are closer by their characteristics to the candidate variety and, as the case may be, differences from these varieties;
- the information which may help to identify the variety and establish its distinctness, including resistance to pests, diseases, resistance to adverse weather conditions, special conditions for testing the variety in order to determine whether the variety is distinct, uniform and stable, other information necessary for variety testing;
- the signature of the applicant/applicants, representative or patent attorney.

The application shall be accompanied by:

- proof of payment of fee in the prescribed amount, indicating, as the case may be, the basis for exemption from payment of fee or for reduction thereof, according to the Government Decision No.774 of 13 August 1997 “on Fees for Legal Services in the Field of Legal Protection of Intellectual Property Objects”;
- a power of attorney, where the application is filed through a representative/patent attorney;
- a document of priority, from which the date of filing of the earlier application shall result, where priority is claimed of an earlier application from another country;
- the documentary proof of acquisition of the right to the grant of a patent, where the applicant is not the same person as the breeder;
- color photographs, necessary to identify the variety, if any;
- permission for introduction into the environment, granted by a competent national body in accordance with legislation in the field of biological security, where the variety is a genetically modified organism.

The variety must be designated by a generic denomination which enables it to be identified.

Variety denomination:

- must be easily identifiable and reproducible by users and must not consist solely of figures, except where this conforms with the established practice for designating specific varieties;
- must not be misleading or confusing in relation to the characteristics, qualities or identity of the variety, or in relation to the identity of the breeder;
- must be different or may not be confused with the denomination of another variety of the same, or closely related, species, which has been entered in the Official Register of Varieties or marketed in any UPOV member State, except when this other variety no longer exists and its denomination did not acquire special significance;
- must be used even after the expiry of the term of the patent;
- must be different or may not be confused with other denominations used for the marketing of goods, or with denominations which may not be used by virtue of other normative acts.
- must not be contrary to ordre public and morality.

The denomination must not include words of the type “kind”, “form”, “hybrid”, “variety” and “cross-breeding” or translations of such words.

The application filed with the AGEPI shall be subject to formal, preliminary and substantive examination according to the established rules. Where the application complies with the requirements, AGEPI shall register it and notify the applicant to this effect. The bibliographic data of the application shall be published in the Official Bulletin of Industrial Property (BOPI) [1].

Upon completion of the substantive examination, the Agency shall furnish the set of application documents to the State Commission for Variety Testing (State Commission), where the variety is tested for distinctness, uniformity and stability. For testing, the applicant shall pay a prescribed fee. Where the new variety complies with the conditions prescribed, it shall provide the applicant with a precise official description of the new variety and a report on the technical examination attesting its compliance with the conditions of patentability.

On the basis of the report on technical examination furnished by the State Commission, AGEPI shall take a decision to grant a patent or to reject a patent application in the case of non-compliance.

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