Plant Varieties. National Patenting

Plant variety patent is a title of protection that certifies the priority of the variety, the authorship of the breeder and the exclusive right of the patent owner to use the variety. The patent shall provide legal protection for a new plant variety in the Republic of Moldova and the scope of that protection shall be determined by the sum of relevant characteristics included in the official description of the variety.

Plant variety patent may be issued only by AGEPI and differs essentially from the plant variety certificate issued by the State Commission after variety testing to determine the agronomic value. The certificate shall only certify the authorship of the breeder or his authorship of the new variety, while the patent gives the owner the exclusive right to use the patented variety.

The term of the plant variety patent

The term of the patent for a plant variety varies depending on the affiliation of the plant variety with certain plant groupings and shall be:

- up to 30 years from the date of grant of the patent for varieties of trees, fruit trees and grapevine;
- up to 25 years from the date of grant of the patent for varieties of other species.

At the request of the patent owner, the term of the patent may be extended for a period of 5 years.

The patent owner shall, throughout the life of the patent, be obliged to pay the annual maintenance fees. Where these fees are not paid, the patent owner shall forfeit his rights deriving from the plant variety patent.

Maintenance of plant variety patent

- For the maintenance of a patent, annual fees shall be paid.
- Annual fees shall be paid following publication of the mention of the grant of a patent and shall be deemed to have been paid when payment is effected within the time limit prescribed in the Regulations on the procedure of filing and examination of an application, grant and maintenance of patent for a plant variety.
- Where an annual fee has not been paid within the prescribed time limit, it may be paid within six months of the expiry date of said time limit, subject to the payment of an additional fee.

Annulment of a patent

A patent for a plant variety issued by AGEPI shall be annulled by the court in whole or in part, at the request of the interested persons, where it is found that at the date of issuance of the patent the variety did not comply with the conditions of patentability or where the patent has been granted to an untitled person.

The request for annulment may be filed throughout the term of the patent.

Use of patented plant varieties in the Republic of Moldova

The patent owner can freely use his variety in the Republic of Moldova, can transfer his rights by assignment, can grant licenses for exploitation to third parties or can transfer his rights by testamentary succession.

Where a plant variety, protected by a patent, is not exploited or is insufficiently exploited, the courts

can apply sanctions consisting in the grant of nonexclusive compulsory licenses for use of the given variety. These sanctions are prescribed by Law and correspond to the principles of the International Convention for the Protection of New Varieties of Plants.

Plant varieties shall be used for production purposes only after said varieties are tested for agronomical value and entered in the Catalog of Plant Varieties.

Maintenance of a variety

The patent owner shall, throughout the term of validity of the patent, be obliged to maintain the characteristics and properties of the variety, indicated in its official description at the date of grant of the patent.

Fees for services in the plant variety protection field

For filing a patent application, claiming priority, examining the application, testing a variety, issuing and maintaining a patent, as well as for performing other legal acts related to the legal protection of new varieties, fees shall be payable in accordance with the Government Decision No. 774 of August 13, 1997 “on Fees for Legal Services in the Field of Protection of Intellectual Property Objects”, as amended.

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