Plant Breeders’ Rights

Plant Breeders’ rights (also known as Plant Variety rights) are a form of intellectual property rights which allow plant breeders to protect their plant varieties. To be eligible for Plant Breeders’ rights in Canada, a variety must be new, distinct, uniform and stable. Once granted, the breeder gets exclusive rights to the propagating material of their variety for a period of 25 years for tree or vine varieties, and 20 years for all other varieties. These exclusive rights include the right to sell, produce and reproduce, import and export propagating material of the variety as well as the right to authorize others to do the same.

Highlights of the Canadian Plant Breeders’ Rights Act:

The Canadian Plant Breeders’ Rights Act (PBRA) was amended in 2015 to meet international standards and strengthen the protection of plant varieties in Canada. The following is a summary of some key provisions of the PBRA:

- An applicant may sell a plant variety within Canada for up to a year prior to the date an application is accepted;
- An applicant may sell a plant variety outside of Canada for a period of up to six years prior to the filing of an application for tree and vine varieties, and a period of up to four years for all other varieties;
- For most varieties, test results from an International Union for the Protection of New Varieties of Plants (UPOV) member country may be purchased for use in Canada to demonstrate that a new variety is distinct, uniform and stable; and
- Provisional protection is provided from the filing date of the application to the date of grant which is a form of interim protection that allows a breeder to seek remuneration from any person which, who carries out acts which, if rights were granted, would require the rights holder’s authorization.

Our Plant Breeders’ Rights practice group is comprised of highly educated professionals with strong experience in the application, use, licensing and sale of Plant Breeders’ rights. They hold graduate and doctorate degrees in organic and inorganic chemistry, biochemistry and molecular genetics. This expertise allows our group to advise clients on all matters of Plant Breeders’ rights including biotechnology, food science, materials, plant genetics and plant variety. Our clients range from individuals and small businesses to major corporations, as well as various universities.

Our Services

The following is a list of services that members of our Plant Breeders’ Rights practice group provide:

- Preparing and prosecuting patent and Plant Breeders’ rights applications worldwide
- Preparing and negotiating licensing agreements
- Conducting due diligence investigations
- Providing patentability, validity, and infringement searches and opinions
- Providing strategic advice on intellectual property rights
- Enforcing intellectual property rights

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