

BOIP



Benelux Office for
Intellectual
Property

Swipe



How can you check
whether a **trademark**
application **conflicts**
with an earlier **plant**
variety denomination?

Article 2.2bis, paragraph 1, of the BCIP defines which trademarks cannot be registered (examination on absolute grounds).



One of the grounds states that under certain conditions a trademark application cannot be registered if it **conflicts with an earlier plant variety denomination.**

(Article 2.2bis, paragraph 1, I. BCIP)



This ground is only relevant if the trademark application is for **non-processed plant material in class 31.**

Think of:

- raw and unprocessed agricultural, horticultural and forest products;
- raw and unprocessed grains and seeds;
- fresh fruit, vegetables and herbs;
- natural plants and flowers;
- bulbs, seedlings and seeds for planting;
- malt.



You can find earlier
plant variety
denominations
using the:



CPVO VARIETY FINDER



CPVO
Community Plant Variety Office



**BOIP uses the CPVO Variety Finder database
for the examination on absolute grounds.**



The Variety Finder contains register information from more than 70 countries and is searchable using a general search engine.




CPVO VARIETY FINDER



CPVO

Community Plant Variety Office



To access the CPVO Variety Finder you must create an account.

This is free of charge.





**Do you want to start a search?
The following is important to know:**



CPVO
Community Plant Variety Office



(1/2) Select the correct filters:

- Under 'Denomination', select 'Exact'.**
Only identical denominations of plant varieties are relevant for a trademark application.
- Under 'Countries', select 'All'.**
All of the plant variety denominations protected by countries that are parties to the UPOV Convention are relevant.
- Under 'Denomination Nature', select 'Denomination'.**
Only earlier plant variety denominations are relevant for the test.



**Do you want to start a search?
The following is important to know:**



(2/2) Select the correct filters:

- Under 'Variety Status', select the following four options together: Registered/Surrendered /Terminated/Expired.**
The protection not applies to existing registered plant variety denominations but also to denominations for which protection has expired or has been surrendered or terminated.
- Under 'Register type', select Plant Breeder's Rights (PBR).**
You only need to see denominations of plant varieties.
- You can leave the other fields blank.**



Now click 'Search'.



Based on the result obtained, you can assess whether a problem could arise between the trademark application and any earlier plant variety denomination.

(See also Article 2.2bis, paragraph 1, I. BCIP)



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Always check the
CPVO VARIETY FINDER
when applying for a
trademark in class 31.

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