

Benelux Office for Intellectual Property





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.

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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:

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CPVO VARIETY FINDER



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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.

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CPVO VARIETY FINDER

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

This is free of charge.

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

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(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.



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

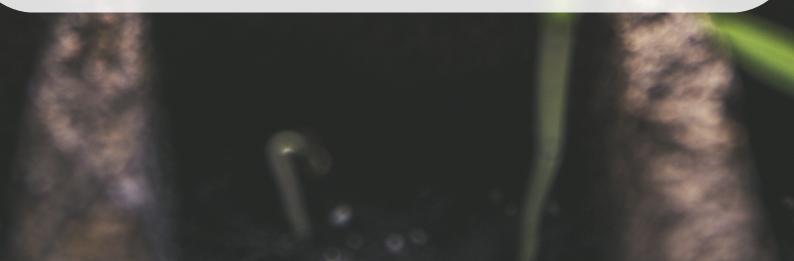
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(2/2) Select the correct filters:

- 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.



Q 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)







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

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