

50 years protecting Intellectual Property Rights for breeders



International community of breeders of asexually reproduced ornamental and fruit plants

CIOPORA Annual General Meeting 2012 in Miami: the Americas' IP Revisited.

Miami Beach, FL, April 23-27, 2012 – upon its return to Europe from Miami, FL, where the latest Annual General Meeting of the association took place, CIOPORA draws a balance of the productive and intensive work & fun week in Miami.

The CIOPORA AGM Week 2012 was extraordinary in many regards: the intensive educational program provided by the association for the members, the exotic geographic setting and the spectacular venues – all of these made the AGM 2012 very special for the CIOPORA community. The main focus of the week was also of a particular character. As the President of the association Andrea Mansuino emphasized in his welcome speech at the AGM on April 24, this year CIOPORA went to USA pursuing two goals: to increase the visibility of the association and its activities beyond the big pond as well as to provide the members with an update on the latest developments of IP protection for plant innovation in the U.S. and the Americas in general. Both objectives were addressed and successfully achieved during the AGM week.

Already weeks prior to the AGM in Miami, CIOPORA informed the association's breeder community about the novelties in Plant Patents brought by the America Invents Act (AIA), which will become effective on March 16, 2013. In a comprehensive article in this year's CIOPORA Chronicle, Benton S. Duffett and Travis D. Boone, the Patent experts from the Buchanan Ingersoll & Rooney PC, informed the breeders about the Plant Patent novelties introduced by AIA:

- **Grace period:** although the AIA was expected to ban the one year "grace period" as a part of the transition towards the "first-to-file" system, according to the provisions of the new AIA the plant breeder are still entitled to the announcement or commercialization of their inventions in the period not exceeding one year prior to the Plant Patent application. Therefore the public availability, commercialization or non-experimental use of a plant in question, or its description in a printed publication within a year prior to the filing of a Plant Patent application are not considered as bars to its patentability. All these actions might be undertaken by the breeder or third person who obtained the plant directly or indirectly from the breeder or inventor. The same rules of the one year "grace period" apply to cases with a PBR application preceding the Plant Patent application in the U.S.

- **Priority claim:** under 35 U.S.C. §119(f) at the time of submission of the application for the U.S. plant patent, the applicant must indicate the priority claim for the earlier PBR application. This can be done via a certified copy of the PBR application which is issued by the respective governmental authority where the PBR application was filed. Once the priority claim is confirmed, the effective filing date for U.S. Plant Patent will be considered to be that of the earlier PBR application.

- **Novelties in procedures:** according to the new AIA, the third parties can now submit information relevant for the patentability of new plant varieties or challenge the Plant Patent after its granting, e.g. in a post-grant review or via an expanded inter-partes reexamination.¹

The IP Seminars and the International IP Conference during the CIOPORA AGM Week in Miami were preoccupied with a further introduction of the breeders into the new AIA provisions and procedures, as well as with the current situation with IP protection for plant innovation in Americas in general. At the IP Conference on April 25 Kitisri Sukhapinda from the USPTO, who overtook the

¹ Duffett, Benton S. and Travis D. Boone. "Plant Patents in the United States after the America Invents Act". *FloraCulture International: CIOPORA Chronicle April 2012*. 12-13. Amsterdam: 2012.

role of the chairwoman of the conference, provided the participants with an update on the state of AIA provisions implementation by USPTO. Of a special significance for CIOPORA were also the presence and the presentations given by the President of ASOCOFLORES Mr. Augusto Solano and by a representative of EXPOFLORES, Mr. Remigio Davalos. Both speakers emphasized the high significance of plant innovation and its effective protection for the successful development of the horticultural sector in Columbia and Ecuador, countries with a leading position in the world's floricultural production and export.

The CIOPORA AGM Week 2012 in Miami became another successful attempt of the association to unite all the parts of production chain behind the idea of value and the necessity of a strong protection of plant innovation. The presence of the special guests from USPTO, UPOV, CPVO, ASOCOFLORES and EXPOFLORES emphasized the strength of CIOPORA's position in its relations with governmental and intergovernmental bodies, as well as with the associations of the leading growers of the market. CIOPORA is looking forward to further successful cooperation and knowledge exchange with breeders, growers and authorities from the Americas and other continents.

CIOPORA is the International Association of Breeders of Vegetatively Reproduced Ornamental and Fruit Varieties. Breeders of such crops hold ca. 2/3 of all PVR titles in the world. Since more than 50 years CIOPORA represents them in all matters of Intellectual Property Protection.

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