

PBR / New Variety

Plant breeders' rights (PBR), also known as plant variety rights (PVR), are rights granted to the breeder of a new variety of plant that give him exclusive control over the propagating material (including seed, cuttings, divisions, tissue culture) and harvested material (cut flowers, fruit, foliage) of a new variety for a number of years.

Plant varieties are protected by Turkish PBR Law No: 5042 in Turkey in compliance with an implementation regulation and a national variety list including the list of plant species for which PBR is accessible in Turkey. Turkish PBR Law is effective since January 2004, which is in full compliance with the 1991 Act of the UPOV Convention, and Turkey became 65th member of UPOV Convention on 18 November 2007. Hence, it is a quite new and questioned field of IP for Turkey for most of the followers like foreign breeders.

Authorized Offices

- *The General Directorate of Crop production and Development (BUGEM) is responsible for PBR registrations.*
- *Variety Registration & Seed Certification Centre (TTSM) holds technical examination tasks including DUS tests for the new varieties.*
- *Both authorities are operated under the Ministry of Food, Agriculture and Livestock.*

Registrability Criteria

- *The plant varieties to be protected should be novel, distinct, uniform and stable*
- *Turkey allows protection for all plant varieties (all species in the UPOV Code System) since 2018 and the current list can be found here (<https://www.upov.int/genie/species.xhtml>)*
- *The law provides a grace/disclosure period of one year in Turkey, four years abroad and six years for trees and vines from the first commercial use.*

Denomination Rules

- A denomination of the protected variety becomes its common name,
- Suggested denomination for variety can not be against trademark legislation,
- If denomination is registered and used in Turkey or in a country that is a party to UPOV Convention, the application is made and used with the same denomination,
- Propagating material of the protected variety also has to be traded with the same denomination,
- The obligation of using a denomination continues even if the breeder's right ends.
- The suggested denomination for variety has to be different from other varieties,
- The denomination should not contain expressions contrary to public order and common morality,
- Previous rights of third persons about the use of protected variety are reserved,
- The suggested denomination for variety has not to be same or similar as the name of the other varieties belonging same or similar species

Protection Period

- 25 years from the grant of the right for ornamentals, vegetables, field crops.
- 30 years for trees, vines and potatoes.
- Priority term: 1 year.

Application Stages

If an application fulfills the above mentioned requirements, the application number and date are published for 3 months allowing for the opposition of third parties. Providing no inconvenience on the technical examination stage or if there is an available DUS report, a Breeder's Right certificate is issued and published accordingly for oppositions to be raised within 30 days.

Technical examination / DUS tests

It is not carried out for the applications provided that DUS tests had been already completed by a PBR Office in a member state of UPOV Convention. Then Turkish authorized office will ask it from that PBR Office and the applicant is invited therefrom to pay an official transmission fee beforehand by avoiding a further technical examination stage in Turkey.

Oppositions

Any interested party may oppose to the application within three months following the publication of the application on the Bulletin. Objections shall be lodged, in writing, with a petition, associated with evidences and documents in support of objection lodged, on the grounds that the variety is not new, not uniform and not stable, or the applicant is not entitled as holder or the variety denomination is not suitable. Furthermore, a granted application during the one month period of its publication. Decision of the Appeal board is final and may only be appealed before the Turkish IP court.

Cost of an application

Basically depends on the type of plant variety applied, technical examinations, translation and charging policy of the representative as well as any opposition from third parties during publication.

Please contact us to receive a cost estimate within 24 hours at most. In Destek Patent, almost all PBR work is performed on a flat fee basis. Subsequent to filing an application, there will be no further cost to you until a crucial stage is to be taken with the BUGEM, for example, an office action response, an opposition received or registration fee request.

Annuities

The protection period for new varieties of plants is for 25 years after registration, or 30 years for trees, vines and potatoes from the grant of the right. Ending date of protection period shall be calculated as to run from the end of the calendar year. Annual fees shall be paid in advance in January for each year after the grant of the right. No late payment is available. In such a case, with the holder of right bringing evidence of force majeure for reasons of which the said fee could not be paid, the right shall be revalidated. The claim related to force majeure shall be put forward within six months as from the related publication in the bulletin.

Status Changes (Assignment, Merger, Name/Address Changes)

Assignments, mergers and other changes should be recorded in the BUGEM in order to have an effect vis-à-vis third parties.

Destek Patent has extensive experience and expertise in international and domestic PBR protection, independent indications of which the firm has been continuously named as Turkey's top-ranked IP firm for as of the introduction of Turkish PBR system according to official PBR filing and registration statistics. Should you require our professional service, please just contact us through global@destekpatent.com