

New Plant Variety Protection System in Lao PDR



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BACKGROUND

- The Intellectual Property system in Lao PDR was established in 1991.
- Member of the World Intellectual Property Organization (WIPO) in 1995.
- Joined Paris Convention for the Protection of Industrial Property in 1998.
- Joined the Patent Cooperation Treaty (PCT) in 2006.
- Joined the Berne Convention for the Protection of Literary and Artistic Works in 2012.

LEGISLATION

Law on Intellectual Property No 01/NA dated December 20, 2011, which covers patents, petty patents, industrial designs, trademarks, trade names, integrated circuit layout-designs, geographical indications, trade secrets, new plant variety, copyright and related rights.

- Ministerial Decision on the Implementation of the Law on Intellectual Property concerning:

1. Patent and Petty Patent
2. Trademark and Trade Names
3. Copyright and Related Rights
4. Industrial Designs
5. Geographical Indication
6. Layout-design of Integrated Circuits.

Law on Intellectual Property

Intellectual property is work of the human mind through inventions and creations. (Art. 2)

Intellectual Property Framework (Art.8)

Intellectual property is composed of:

1. industrial property;
2. new plant variety;
3. copyright and related rights.

New Plant Variety

(Art. 10)

New plant variety is composed of:

- Plant variety that exists generally and is derived from improvements to become a new plant variety;
- Plant variety that is discovered in the nature and then is developed to become a new plant variety.

Requirements for Registration of New Plant Varieties

The registration of a new plant variety shall meet all the following requirements:

- new;
- distinct;
- uniform;
- stable;
- the variety is designated by a denomination.

Novelty

A variety shall be deemed to be new if, at the date of filing of the application for a breeder's right, propagating or harvested material of the variety has not been sold or otherwise disposed of to others, by or with the consent of the breeder, for purposes of exploitation of the variety within the time period:

1. more than one year before the date of filing of the national application; or
2. earlier than four years, or in the case of trees or vines, earlier than six years before the said date in any other territory.

Distinctness

The variety shall be deemed to be distinct if it is clearly distinguishable from any other variety whose existence is a matter of common knowledge at the time of the filing of the application.

Uniformity

The variety shall be deemed to be uniform if, subject to the variation that may be expected from the particular features of its propagation, it is sufficiently uniform in its relevant characteristics.

Stability

The variety shall be deemed to be stable if its relevant characteristics remain unchanged after repeated propagation or, in the case of a particular cycle of propagation, at the end of each such cycle.

Application for Registration

Any individual, legal entity or organization eligible to submit an application is as follows:

- any breeder as defined above may file an application for breeder's rights;
- where two or more persons have jointly bred a new variety, such persons may jointly apply for plant breeder's rights.
- a foreign individual, legal entity or organization shall enjoy within the territory of the Lao PDR the same treatment as is accorded to Lao nationals.

Application for Registration

- Any individual, legal entity or organization eligible to apply for plant breeders rights may file an application to register a plant variety at Ministry of Science and Technology. Each application for registration of new plant variety shall relate to a single plant variety.

Examination

- An application for plant variety protection shall be subject to an examination for formalities and a substantive examination for compliance with the conditions and shall be published.

- In the course of the examination, the Ministry of Science and Technology may cause the growing of the variety or the carrying out of other necessary tests, or take into account the results of growing tests or other trials which have already been carried out.
- Where an application has been filed in another country, the applicant may furnish the application and examination report from the plant variety authority in such country and request that such report be adopted.

Rights of the New Plant Variety Owner

The new plant variety owner has rights as follows:

- to prevent individual, legal entity or organization:
 - production or reproduction;
 - conditioning for the purpose of propagation;
 - offering for sale;
 - selling or other marketing;
 - exporting, importing;
 - stocking for any of the purposes mentioned in items above.

- to make his authorization subject to conditions and limitations;
- to protect their rights under the law and regulations against infringements by others such as to institute court action, [and] rights to compensation from damages caused by others.

Term of Protection of the New Plant Varieties

The term of protection of the new plant variety shall be, for trees and vines, a fixed period of 25 years from the date of grant of breeder's right and for other varieties of plants, 20 years from the date of grant of the breeder's right.

FUTURE DIRECTION

- Drafting Ministerial Decision on the Implementation of the Law on Intellectual Property concerning PVP.
- Establishing the new plant variety registration system at the Department of Intellectual Property, Ministry of Science and Technology by 2016.
- Establishing the DUS Test Center at the Ministry of Agriculture and Forestry.
- Seeking a cooperation and assistance in capacity building particularly in DUS examination and developing Test Guidelines
- Strengthening PVP awareness among public and private sectors.

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Thank you

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