

Enforcement
Seminar
8 September 2016

Enforcement of PBR In the Republic of Korea

Jang, Jun Yon
Senior Examiner



Korea Seed & Variety Service

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- II. PVP system in Korea
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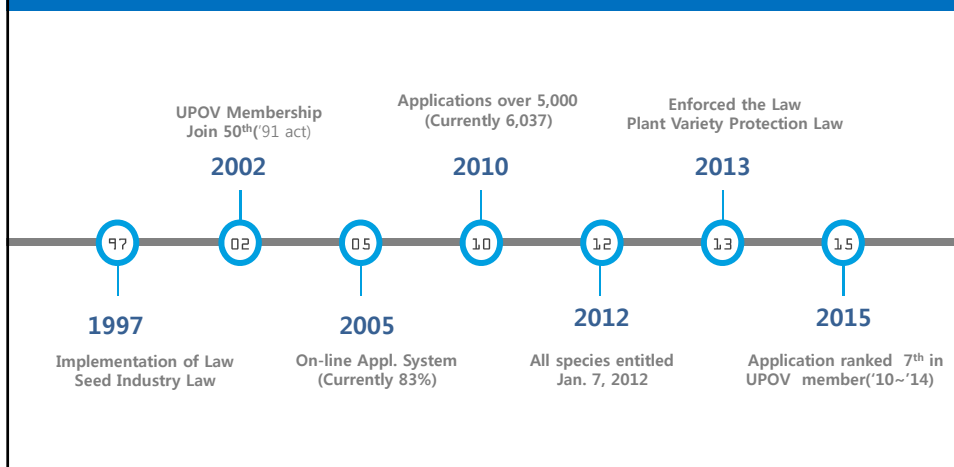


I . Introduction of Korea Seed & Variety Service

History of KSVS

We spent 19 years with PVP system by our side

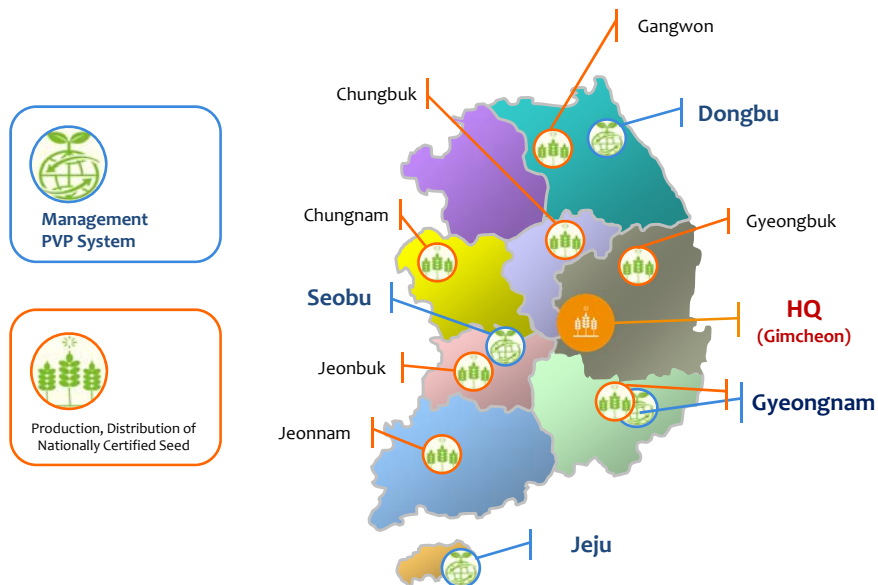
With strong determination, KSVS has carried out its mandate for the past 19 years



Functions of KSVS



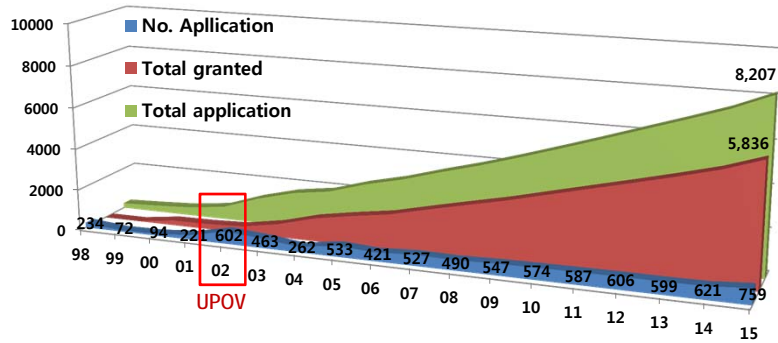
Location of KSVS



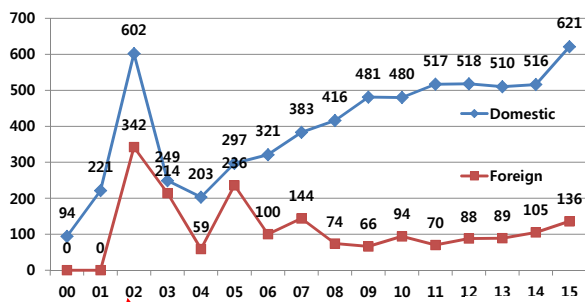
Application & Registration of KSVS

As of December 2015, Among the total 8,207 applications filed, 5,836 were granted PVPR

No. 7 in active titles among the **UPOV** members



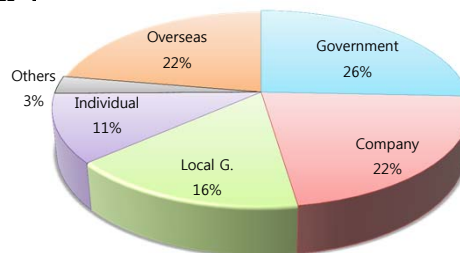
Domestic & Foreign Application of KSVS



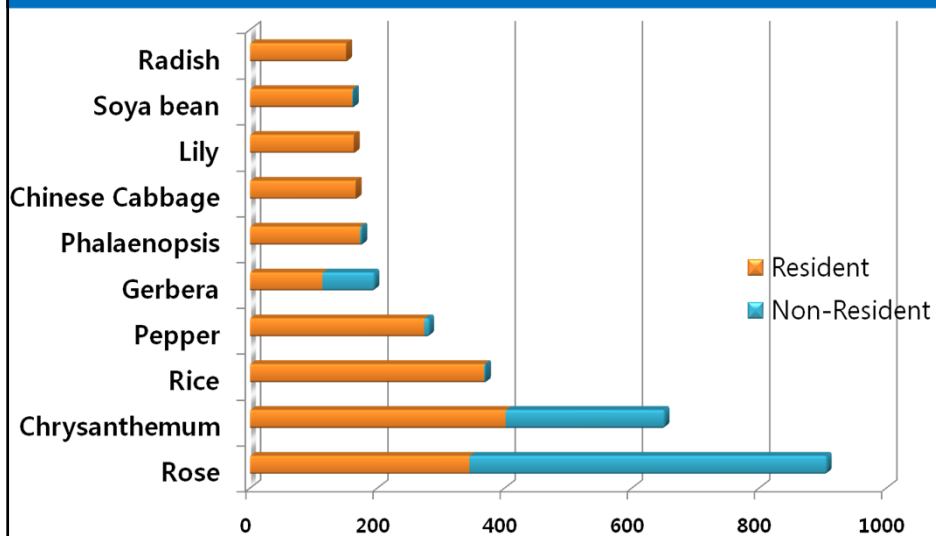
Designation of rose, lily and chrysanthemum

Designation of gerbera and phalaenopsis

By years



Top Application by Crops(2016. 7.)



II. PVP system in The Republic of Korea

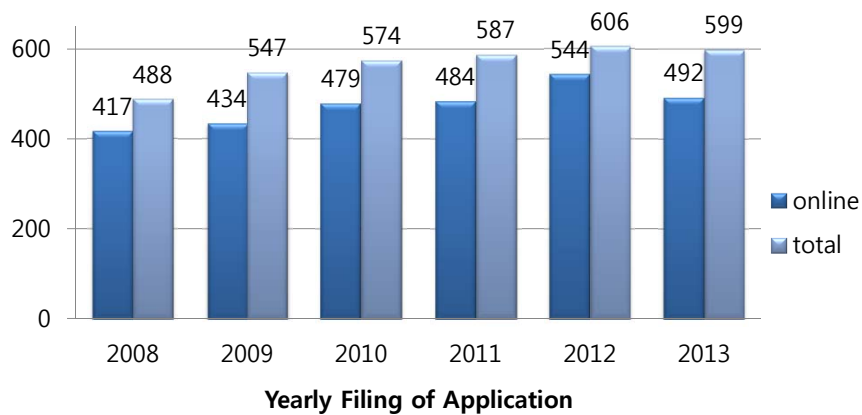
UPOV '91 Act

Introduction of KSVS Information System related to PVP

- **Electronic Application System**
- **PVP Examination Aid System**
 - Supporting examiner inspects Application and grants PVPR
- **DUS trial Data Management System**
 - Statistical Processing and Building Characteristics Database
- **Electronic Document Management System**
 - Keeping and Searching all Document related to Application

Electronic Application System

- **Web-based online system (<http://www.seednet.go.kr>)**
 - Applicant can access through Internet



Electronic Application System

- ① Permission of membership
- ② Log-in
- ③ Filling-in the application form
- ④ Attachment of additional files
- ⑤ Insert Digital Signature
- ⑥ Pay fee for application
(in case non-government agency)



Application
Receipt

The screenshot displays a web-based application form with multiple sections for data entry. Key sections include:

- Applicant Information:** Fields for name, ID number, address, and phone number.
- Agent Information:** Fields for name, ID number, address, and phone number.
- Application Details:** Fields for application type, fee amount, and payment method.
- Payment Information:** Fields for bank account number and payment date.
- Additional Information:** Fields for digital signature and other relevant details.

PVP Examination Aid System

- Web-based online system (for Examiner and Operation staff)

Examiner

- ① Making Decision Whether or not grant PVPR
- ② Checking Variety denomination
- ③ Writing Examination Report
- ④ Publishing Gazette

PVP Examination Aid System

- Web-based online system (for Examiner and Operation staff)

PVP Operation staff

- ① Registration and Issue of PVPR
- ② Notification and Recording
The payment of Registration / Annual fee
- ③ Cancellation of invalid PVPR
- ④ Keeping the Change of PVPR Manager or valid Right

DUS trial Data Management System

- Web-based online system (for DUS staff)

DUS staff

- ① Input DUS trial Data and statistical processing
- ② Searching for Characteristic Database
To find out comparison or reference variety
- ③ Writing DUS trial report

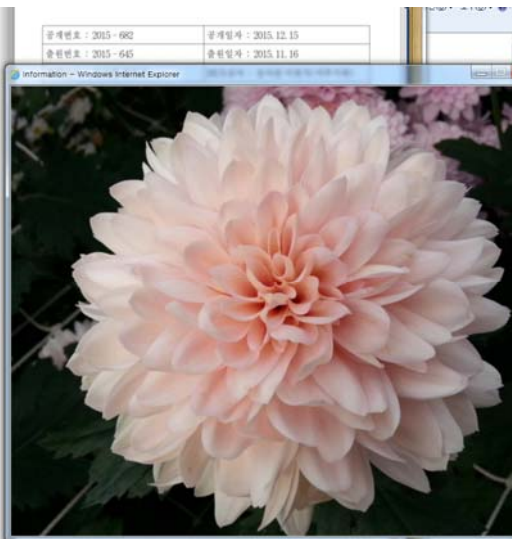
Electronic Document Management System

- Web-based online system

- ① Conversion to PDF format all document
 - Application form(including attached files), Examination Report, DUS trial Report, Certification of PVPR and so on...
- ② Keeping Document Permanently
- ③ Searching Document by Variety Denomination, Application Number

E-gazette

16. 국화	
공개번호 : 2015-676	공개일자 : 2015.12.15
출원번호 : 2015-639	출원일자 : 2015.11.12
출원인사 : 심사관 정준선	DCS일사 : 심사관 이원재(사무직원)
추진권주장 :	
출원인 : 세종대학교 산학협력단(서울특별시 광진구 군자동)	
대리인 :	
특정자 : 임진희, 황성민, 이광남	
출원명 : 에델린 (Edelin)	※ 출원사건번호
학명 및 일반명 : <i>Chrysanthemum morifolium</i> (Ramat.) 국화	
물종특성 (본 내용은 출원인이 작성한 것임)	
1. 식물체의 주요 형태적 특성 ○ 식물체 초장은 85cm, 식물체 광경유형은 단립출기형임 ○ 줄기 세은 녹색이며 줄기 적갈색 표기는 중간, 잎자루 자라는 약간 상방임 ○ 잎 길이는 약 13.5cm, 너비는 7.5cm에 달 하며 잎이여 대한 절경 열림의 깊이는 3.6cm임 ○ 잎 피뢰단 별편의 가장자리는 겹쳐지고 잎 기부의 주된 모양은 뾰족하고 잎 가장자리 톨니의 깊이는 중간임 ○ 피뢰형태는 단방화서, 피뢰 피뢰너지는 약 35cm, 꽃기당 부성화의 총수는 약 28개임 ○ 꽃망울의 직경적인 배열면의 세은 23D, 꽃망울이 꽃 직경은 약 11.5cm, 꽃높이는 4.15cm, 꽃자루 길이는 3.5cm임 ○ 필상화 열리는 중간, 필상화 주변 형태는 타원형, 필상화 표면의 융골선은 2개임 ○ 필상화 세로축은 안쪽으로 말리며 필상화 가장자리는 약하게 안으로 말림 ○ 필상화 외단의 모양은 직방의 길러진 톨니모양이고 필상화 표면의 주된 세은 60D, 이면의 세은 표면적외 융이음 ○ 필상화모에 해당수년 생산물종의 개화소기기간은 약 42일이며 자연재해되는 벼를	
2. 출원물종이 대표물종과 구별되는 특성(대표물종: 상백인) ○ 출원물종은 식물체 초장이 약 85cm이나 대표물종은 101cm임 ○ 출원물종은 피뢰 형태가 상방화서이나 대표물종은 원상형임 ○ 출원물종은 필상화 외단모양의 직방의 길러진 톨니모양이나 대표물종은 뾰족하게 톨니음 ○ 출원물종은 필상화 표면의 주된 세이 60D이나 대표물종은 74C임 ○ 출원물종은 꽃망울의 개화직전 배열면의 세은 23D이나 대표물종은 70C임	



III. Enforcement of PBR in the Republic of Korea

Enforced PVP Law

As of 1 June, 2012, Seed Industry Law was separated to Seed Industry Law and PVP Law. **New PVP Law was enforced in June 2, 2013**

『Seed Industry Law』

- **Poster Seed Industry**
- **Variety Performance Management**
- **Seed Certification and Control of the marketed seeds**



『PVP Law』

- **Restore PVP right**
 - in case terminated for not paying PVP fee on time
- **Strengthen PVP right**
 - increase penalty on the infringement case
 - ; imprison(5years), fine(30mill.)
 - 7years, 100million won

Penalty for infringement of PBR

What is the Infringement of PBR?

- (1) infringes a **variety protection right or exclusive license**;
- (2) infringes a **provisional protection right**, only where the variety protection right has been registered
- (3) rendered a variety protection ruling or trial decision through a **fraudulent act or any unlawful method**

What is the penalty?

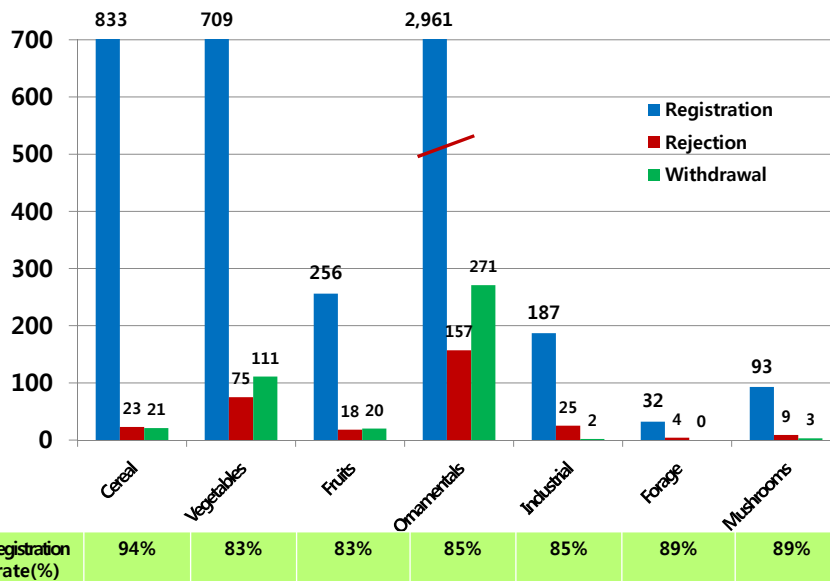
Imprisonment : not more than five (5) years or
 Fine : not exceeding thirty million won (30,000,000)

From June 1st
 2013

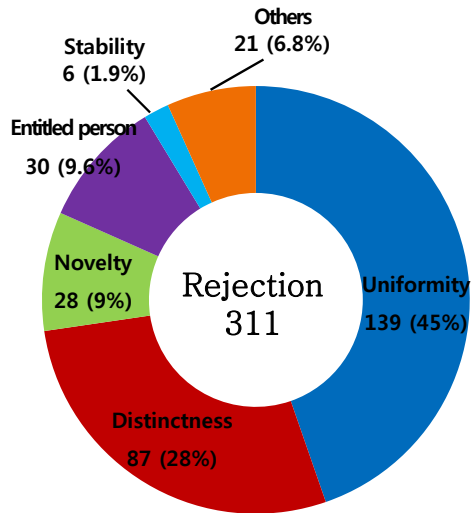
What is the penalty?

Imprisonment : not more than five (7) years or
 Fine : not exceeding one hundred million won (100million)

Registration rate by Crops(2015.12)

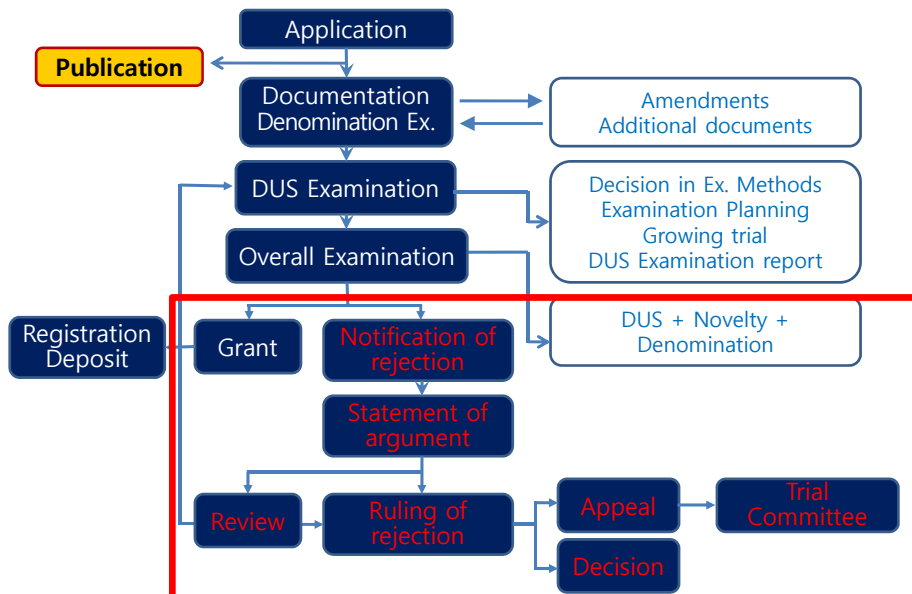


Reason for Rejection(2015.12)



	Rejection	Nullification	Withdrawal
Total	311	106	432
Ornamentals	157	84	271
Vegetables	75	2	111
Industrial	25	0	7
Cereals	23	5	21
Fruits	18	14	20
Mushrooms	9	1	2
Forage	4	0	0

Enforcement of Flowchart



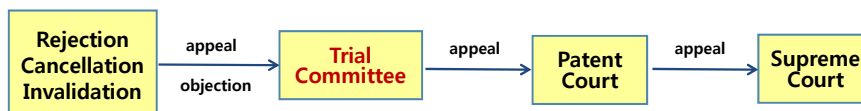
Enforcement tools

❖ Variety Protection Trial Committee : belong to Ministry

- responsible for trial and retrial of PVP
- 1 Chairman, within 8 standing members
- panel of trial : 3 person. Decision by a majority vote

❖ Who can Demand?

- Trial against Rejection ruling : Applicant
- Trial against Cancellation of PVPR : PVPR Holder
- Invalidation trial of PVPR : Examiner, interested person



Cases filed by Appeal committee

❖ Trial against Rejection ruling

- 1) 'A' interspecific hybrid('01) : Dismiss → Rejection ruling of PVP
- reason of demand : uniformity
- 2) 'B' radish('03) : case remanded → Registered for PVPR
- reason of demand : distinctness
- 3) 'C' interspecific hybrid('07) : Dismiss(Patent Court) → Rejection ruling of PVP
- reason of demand : uniformity

❖ Invalidation trial of PVPR

- 1) 'A' rose('04) : Dismiss → Maintain of PVPR
- reason of demand : application by untitled person
- 2) 'B' apple('07) : Cite → Invalidation of PVPR
- reason of demand : lack of novelty

Cases filed by Legal action

❖ Criminal Suit

- Watermelon
- Anthrium

❖ Civil Suit

- Rose
- Watermelon
- Anthrium



Thank for your attention!

Let PVP System be like PER and our partner!