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INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS
Geneva

TECHNICAL WORKING PARTY FOR ORNAMENTAL PLANTS AND FOREST TREES

Forty-Ninth Session
Gimcheon City, Republic of Korea, June 13 to 17, 2016

SECOND ADDENDUM TO
MATTERS CONCERNING VARIETY DESCRIPTIONS

Document prepared by an expert from Australia

Disclaimer: this document does not represent UPOV policies or guidance

The Annex to this document contains a presentation by an expert from Australia on the “Role and functions of variety descriptions in Australia” made at the forty-ninth session of the Technical Working Party for Ornamental Plants and Forest Trees (TWO).

[Annex follows]

UPDATING VARIETY DESCRIPTIONS - OUTCOME OF THE SURVEY

Presentation by Mr. Nik Hulse, Australia

Australian Government
IP Australia

Role and functions of variety descriptions in Australia

Nik Hulse, Acting Chief of PBR

TWO 49th Session, Gimcheon, Korea, June 2016

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Roles

- Distinctness – primary
 - Defines the variety (as grown under specified conditions)
- Virtual reference collection
- Objections
- Infringement, EDV
- Maintenance?



Distinctness

- Provides an official description of the variety
 - grown under specified conditions
- Amendments permitted before grant
- Amendments after grant are generally not permitted – very rare

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AU descriptions include

- Details of Application
- Details of Trial- location, time, treatment, number of plants, trial design
- Origin and breeding of the variety
- Choice of most similar varieties of common knowledge
- Variety description and distinctness claims
- Photograph

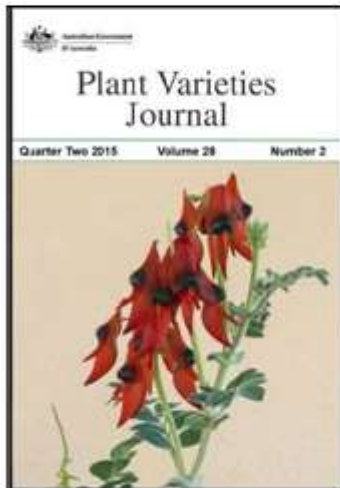
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Virtual reference collection

- Provides a resource for identifying potential existing varieties of common knowledge

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Objections

- Publication of the description provides transparency and opportunity for a third party to object to an application for PBR before it is granted

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Infringement/EDV

- Descriptions can play a role post grant in infringement cases usually in conjunction with other evidence
- Descriptions play a role post grant in claims of EDV

Maintenance?

- Generally responsibility of grantee. But..
 - if challenged
 - significant TG changes

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Thank You



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[End of Annex and of document]