A Legal Perspective on
Essentially Derived Varieties

Dr. jur. Gert Würtzberger
Background for the Introduction to the EDV Concept to the 1991 Agreement

- Necessary strengthening of the scope of protection granted by PVRs, in particular granting protection against plagiarism

- Establishment of a protection level for PVRs comparable to that for patents in the area of overlaps of patents and PVRs
Legal Requirement:

• Predominantly derived
  - from the initial variety with regard to which a right has been granted;
  or
  - from a variety which itself is a derivation of a protected variety

Technical Requirements:

• Distinctness from the initial variety whereas the distinctness is the result of the act of derivation

• Conformity, essentially with the initial variety, in the expression of characteristics that results from the genotype or a combination of genotypes of the initial variety

Example 1

A (initial variety)

B (derived from A)

C (derived from B)

D (derived from C)

Example 2

A (initial variety)

B (derived from A)

C (derived from B)

D (derived from C and A, or from A)

(An extended line means that the rules with regard to essentially derived varieties are applicable and, a dotted line means that those rules are not applicable)
Bulk Method                    Pedigree Method

Disposition of Material Application for a PVR Grant of a PVR
of the Initial Variety of the Initial Variety for the Initial Variety

EDV                                        EDV
is created                     is created

(Excerpt from “Grundlagen der Pflanzenzüchtung”)
WÜRTENBERGER
KUNZE
Rechtsanwälte
Maximiliansplatz 12b
80333 München

Telefon +49 . 89 . 255 43 79 . 0
Telefax +49 . 89 . 255 43 79 . 25

www.wk-ip.eu
mail@wk-ip.eu