Enforcement of PBR
In the Republic of Korea
Jang, Jun Yon
Senior Examiner

I. Introduction of KSVS
Ⅱ. PVP system in Korea
Ⅲ. Enforcement of PBR in Korea

Contents
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

- 1997: Implementation of Law Seed Industry Law
- 2002: UPOV Membership Join 50th (act)
- 2005: On-line Appl. System (Currently 83%)
- 2010: Application over 5,000 (Currently 6,037)
- 2012: Enforced the Law Plant Variety Protection Law
- 2013: All species entitled Jan. 7, 2012
- 2015: Application ranked 7th in UPOV member(10~'14)
Functions of KSVS

- Management of Seed Marketing
- Production & Distribution of Nationally Certified Seed
- Support Breeder
- Encourage Breeding Activities
- PVP System Management

Location of KSVS

- Management PVP System
- Production, Distribution of Nationally Certified Seed

Map of regions in Korea:
- Gangwon
- Chungbuk
- Chungnam
- Seobu
- Jeonbuk
- Jeonnam
- Gyeongbuk
- Jeju
- Gyeongnam
- HQ (Gimcheon)
- Dongbu
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.

**Application & Registration of KSVS**

**Domestic & Foreign Application of KSVS**
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

```
<table>
<thead>
<tr>
<th>Year</th>
<th>Total Filing</th>
</tr>
</thead>
<tbody>
<tr>
<td>2008</td>
<td>417</td>
</tr>
<tr>
<td>2009</td>
<td>488</td>
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<tr>
<td>2010</td>
<td>547</td>
</tr>
<tr>
<td>2011</td>
<td>574</td>
</tr>
<tr>
<td>2012</td>
<td>587</td>
</tr>
<tr>
<td>2013</td>
<td>606</td>
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</table>
```
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

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)**

<table>
<thead>
<tr>
<th>PVP Operation staff</th>
</tr>
</thead>
<tbody>
<tr>
<td>① Registration and Issue of PVPR</td>
</tr>
<tr>
<td>② Notification and Recording</td>
</tr>
<tr>
<td>The payment of Registration / Annual fee</td>
</tr>
<tr>
<td>③ Cancellation of invalid PVPR</td>
</tr>
<tr>
<td>④ Keeping the Change of PVPR Manager or valid Right</td>
</tr>
</tbody>
</table>

### DUS trial Data Management System

**Web-based online system (for DUS staff)**

<table>
<thead>
<tr>
<th>DUS staff</th>
</tr>
</thead>
<tbody>
<tr>
<td>① Input DUS trial Data and statistical processing</td>
</tr>
<tr>
<td>② Searching for Characteristic Database</td>
</tr>
<tr>
<td>To find out comparison or reference variety</td>
</tr>
<tr>
<td>③ Writing DUS trial report</td>
</tr>
</tbody>
</table>
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
III. Enforcement of PBR in the Republic of Korea

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.

- Poster Seed Industry
- Variety Performance Management
- Seed Certification and Control of the marketed seeds
- 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
- Imprisonment: not more than five (7) years or
- Fine: not exceeding one hundred million won (100million)

Registration rate by Crops(2015.12)

<table>
<thead>
<tr>
<th>Category</th>
<th>Registration</th>
<th>Rejection</th>
<th>Withdrawal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Grain</td>
<td>833</td>
<td>23</td>
<td>21</td>
</tr>
<tr>
<td>Vegetables</td>
<td>709</td>
<td>75</td>
<td>111</td>
</tr>
<tr>
<td>Fruits</td>
<td>256</td>
<td>18</td>
<td>20</td>
</tr>
<tr>
<td>Grains &amp; Oilseeds</td>
<td>2,961</td>
<td>197</td>
<td>157</td>
</tr>
<tr>
<td>Vegetables</td>
<td>187</td>
<td>25</td>
<td>2</td>
</tr>
<tr>
<td>Fruits</td>
<td>32</td>
<td>4</td>
<td>0</td>
</tr>
<tr>
<td>Grain &amp; Oilseeds</td>
<td>93</td>
<td>9</td>
<td>3</td>
</tr>
</tbody>
</table>

Registration rate(%)
- Grain: 94%
- Vegetables: 83%
- Fruits: 83%
- Grains & Oilseeds: 85%
- Vegetables: 85%
- Fruits: 89%
- Grain & Oilseeds: 89%
Reason for Rejection (2015.12)

<table>
<thead>
<tr>
<th>Reason</th>
<th>Rejection</th>
<th>Nullification</th>
<th>Withdrawal</th>
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</thead>
<tbody>
<tr>
<td>Total</td>
<td>311</td>
<td>106</td>
<td>432</td>
</tr>
<tr>
<td>Ornamentals</td>
<td>157</td>
<td>84</td>
<td>271</td>
</tr>
<tr>
<td>Vegetables</td>
<td>75</td>
<td>2</td>
<td>111</td>
</tr>
<tr>
<td>Industrial</td>
<td>25</td>
<td>0</td>
<td>7</td>
</tr>
<tr>
<td>Cereals</td>
<td>23</td>
<td>5</td>
<td>21</td>
</tr>
<tr>
<td>Fruits</td>
<td>18</td>
<td>14</td>
<td>20</td>
</tr>
<tr>
<td>Mushrooms</td>
<td>9</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>Forage</td>
<td>4</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>

Enforcement of Flowchart

1. Application
2. Documentation
   - Denomination
   - Ex.
3. DUS Examination
4. Overall Examination
5. Grant
6. Notification of rejection
7. Statement of argument
8. Review
9. Ruling of rejection
10. Appeal
11. Decision
12. Trial Committee
13. DUS + Novelty + Denomination
14. Amendments Additional documents
15. Decision in Ex. Methods
16. Examination Planning
17. Growing trial
18. DUS Examination report
19. Publication
20. Registration Deposit
21. Review
22. Statement of argument
23. DUS Examination report
24. Decision
25. Appeal
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

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Cases filed by Appeal committee

- **Trial against Rejection ruling**
  1. ‘A’ interspecific hybrid (’01): Dismiss → Maintain of PVPR
     - 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!