Each year, companies invest millions of dollars in biotechnology and plant breeding research with the goal of producing and marketing new biotechnology methods, genes, plant cultivars, and hybrids. Effective protection of these new plant products is necessary to provide the incentive for this large research investment. Also, an increasing number of university administrators and professors are considering using plant proprietary rights as one way to increase their research resources.

**BRIEF HISTORY OF PLANT PROPRIETARY RIGHTS**

Prior to 1930, no intellectual property rights were available for plants. For most plant species, plant breeding research and cultivar development were conducted by state and federal government experiment stations. Financial incentives were not present to encourage private companies to invest substantial amounts in research for developing new cultivars. In 1930, the Plant Patent Act (PPA)\(^1\) was enacted into law. The plant patent grants the breeder the exclusive right, for 17 yr, to propagate the patented plant by asexual reproduction. The purpose of the PPA was to encourage research investment in asexually reproduced plant species.

Since 1930, over 6000 plant patents have been issued by the Patent and Trademark Office, primarily for fruit trees, flowers, ornamental trees, grape, and other horticultural species. The PPA has successfully encouraged the development of new genotypes by private industry. Since 1930, the primary development in many species of asexually reproduced cultivars has shifted from state and federal government experiment stations to private companies.

The Plant Variety Protection Act (PVPA)\(^2\) was enacted in 1970 to provide patent-like protection for seed plant species. Prior to 1970 plant breeders in industry worked primarily with corn (*Zea mays* L.) and sorghum.

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\(^1\)Townsend-Parnell Plant Patent Act of 23 May 1930 (Public, no. 245, 71st Congress).