California Seed Association Fact Sheet Series



Q **What is IP?**

A Intellectual Property, an umbrella term for various legal entitlements

Background

Intellectual property (IP) refers to various legal rights attached to names, words, symbols (trademarks), recorded media (copy rights), inventions (patents) or valuable information or material that has not been disclosed (trade secrets). Owners of these entitlements may exercise exclusive rights known as Intellectual Property Rights. The seed industry has undergone substantial change in recent years in regard to IP. Prior to 1975, all of a species' heritable traits were available to a plant breeder. Even if these traits existed only in proprietary varieties that were protected under a Plant Patent (1930) or under the Plant Variety Protection Act (PVPA, 1970 and 1994), cross-pollination of the protected variety and reselection were and still are allowed under a breeder's exemption. Farmers are also allowed to save seed of varieties protected under the PVPA for their use. The PVPA protects varieties that are seed propagated and plant patents confer similar rights to plants that are clonally propagated such as strawberries. Now that plant varieties and unique genetic traits also are being granted utility patents, the rights to these traits or crossing to such varieties in a breeding program is restricted without having a license. Although utility patents may allow the developer to gain maximum value from their investment in research, it limits further improvement of that germplasm by other breeders. This creates the opportunity for seed groups to maintain market dominance in areas where they possess elite germplasm or collect revenue through licensing agreements on germplasm or technology. In practice, companies routinely cross-license their germplasm or traits.

Intellectual property protection allows plant breeders to control commercialization of their plant varieties and plant products (such as seeds) to ensure return on their investment, but agricultural patents also make it difficult for researchers to access patented technologies when developing specialty crops or crops for humanitarian purposes. Groups such as the Public Intellectual Property Resource for Agriculture (PIPRA) promote licensing practices that provide sufficient motivation for developing new crops and technologies while allowing researchers access to the intellectual property information they need to utilize scientific innovations for the greater good. PIPRA helps improve agriculture in emerging economies by decreasing intellectual property barriers and increasing technology transfer. They also work with farmers and scientists in mature economies who are growing specialty crops and help member institutions achieve their humanitarian mandates by making sure their technological innovations get to those who need it most.

More Information

ipHandbook (http://www.iphandbook.org)
Public Intellectual Property Resource for Agriculture (PIPRA) (www.pipra.org)

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