

One Hundred Fifth Congress
of the
United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Tuesday,
the twenty-seventh day of January, one thousand nine hundred and ninety-eight*

An Act

To amend title 35, United States Code, to protect patent owners against the unauthorized sale of plant parts taken from plants illegally reproduced, and for other purposes.

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the “Plant Patent Amendments Act of 1998”.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress makes the following findings:

(1) The protection provided by plant patents under title 35, United States Code, dating back to 1930, has historically benefited American agriculture and horticulture and the public by providing an incentive for breeders to develop new plant varieties.

(2) Domestic and foreign agricultural trade is rapidly expanding and is very different from the trade of the past. An unforeseen ambiguity in the provisions of title 35, United States Code, is undermining the orderly collection of royalties due breeders holding United States plant patents.

(3) Plant parts produced from plants protected by United States plant patents are being taken from illegally reproduced plants and traded in United States markets to the detriment of plant patent holders.

(4) Resulting lost royalty income inhibits investment in domestic research and breeding activities associated with a wide variety of crops—an area where the United States has historically enjoyed a strong international position. Such research is the foundation of a strong horticultural industry.

(5) Infringers producing such plant parts from unauthorized plants enjoy an unfair competitive advantage over producers who pay royalties on varieties protected by United States plant patents.

(b) PURPOSES.—The purposes of this Act are—

(1) to clearly and explicitly provide that title 35, United States Code, protects the owner of a plant patent against the unauthorized sale of plant parts taken from plants illegally reproduced;

(2) to make the protections provided under such title more consistent with those provided breeders of sexually reproduced plants under the Plant Variety Protection Act (7 U.S.C. 2321

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et seq.), as amended by the Plant Variety Protection Act Amendments of 1994 (Public Law 103–349); and

(3) to strengthen the ability of United States plant patent holders to enforce their patent rights with regard to importation of plant parts produced from plants protected by United States plant patents, which are propagated without the authorization of the patent holder.

SEC. 3. AMENDMENT TO TITLE 35, UNITED STATES CODE.

(a) **RIGHTS IN PLANT PATENTS.**—Section 163 of title 35, United States Code, is amended to read as follows:

“§ 163. Grant

“In the case of a plant patent, the grant shall include the right to exclude others from asexually reproducing the plant, and from using, offering for sale, or selling the plant so reproduced, or any of its parts, throughout the United States, or from importing the plant so reproduced, or any parts thereof, into the United States.”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to any plant patent issued on or after the date of the enactment of this Act.

SEC. 4. ACCESS TO ELECTRONIC PATENT INFORMATION.

(a) **IN GENERAL.**—The United States Patent and Trademark Office shall develop and implement statewide computer networks with remote library sites in requesting rural States such that citizens in those States will have enhanced access to information in their State’s patent and trademark depository library.

(b) **DEFINITION.**—In this section, the term “rural States” means the States that qualified on January 1, 1997, as rural States under section 1501(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 379bb(b)).

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*