How Variety Protection Fuels Blueberry Innovation and Competitive Advantage

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Previous articles in the Australian Berry Journal have discussed Plant Breeders' Rights (PBR), emphasising their critical role in safeguarding the intellectual property of new berry varieties, promoting innovation, ensuring fair compensation for breeders, and maintaining the integrity of the berry industry.

A recent interview held by the International Blueberry Organization (IBO) with Yolanda Huerta, Vice Secretary-General of the International Union for the Protection of New Varieties of Plants (UPOV) provides further interesting insights into the importance of variety protection on the global stage. This article provides a summary of those insights, but interested readers can access the full article at bit.ly/IBO-UPOV

Plant Breeders Rights (PBR) in Australia are a form of intellectual property protection granted under the Plant Breeder's Rights Act 1994. They give breeders exclusive commercial rights to new plant varieties they have developed, including the right to produce, sell, import, and export the variety. These rights typically last for up to 20 years (25 for trees and vines). To qualify, the plant must be distinct, uniform, stable, and new to commercial sale. PBR encourages innovation in plant breeding by providing legal protection and financial incentives, supporting agricultural progress and ensuring fair recognition for the breeder's efforts.

Established in 1961 under the International Convention for the Protection of New Varieties of Plants, the International Union for the Protection of New Varieties of Plants (UPOV) aims to promote a robust system of plant variety protection. Its core mission is to encourage the development of new plant varieties that benefit society. The UPOV Convention enables member countries to support plant breeding by granting an intellectual property right (known as the plant breeder's right) to those who develop new plant varieties. This right helps ensure breeders are rewarded for their innovation and investment.

To date, approximately 1,387 plant variety protection titles have been granted for about 560 distinct blueberry varieties under the UPOV system based on the information provided by UPOV members.

The top three UPOV members leading in blueberry variety protection are the United States, Chile, and the European Union. Completing the top 10 are Mexico, Uruguay, Peru, Ukraine, the United Kingdom, the Netherlands, and Poland.

To protect a new blueberry variety in accordance with the laws of UPOV members, the variety must meet four key criteria:

- **Distinct:** This refers to the variety's ability to be distinguished from any other known variety in any country
- **Uniform:** The variety must be sufficiently uniform in its relevant characteristics
- **Stable:** The variety must remain stable in its relevant characteristics after repeated propagation
- **Novel:** This means that the variety has not been commercialised with the consent of the breeder beyond the grace periods

The 1991 UPOV Act is the most recent version of the UPOV Convention, strengthening the rights of plant breeders. It grants breeders exclusive control over the production, reproduction, sale, export, and import of

their protected plant varieties. plant variety protection lasts a minimum of 25 years for trees and vines, and 20 years for other plants. This period starts from the date of the grant. Since blueberries are not considered trees or vines, the protection for a new blueberry variety lasts at least 20 years. The Act also allows for the protection of essentially derived varieties and limits the use of protected varieties by others without the breeder's permission. It covers UPOV member countries that have acceded to the 1991 Act and applies to breeders who develop new, distinct, uniform, and stable plant varieties.

Educating blueberry breeders about variety protection is vital because developing a new, successful blueberry variety can take over a decade of research and investment. Without protection, these varieties can be easily reproduced by others, making it hard for breeders to recover their costs. Plant variety protection gives breeders exclusive rights, encouraging ongoing innovation and investment in better-tasting, higher-yielding, and more resilient blueberry varieties. This protection not only supports the breeders but also strengthens the entire blueberry supply chain, from growers and exporters to retailers and consumers, by ensuring access to improved, market-relevant fruit.

Farmers can sell fruit from protected blueberry varieties if the cuttings were obtained with the breeder's permission. However, they cannot sell or share cuttings without authorisation. Breeders must allow use of protected varieties for further breeding (the "breeder's exemption"), and private, non-commercial use like growing for household food is also permitted.

Variety protection boosts the availability of new and improved blueberry varieties by giving breeders exclusive rights, helping them recover the time and cost of development. This incentive drives innovation in traits like longer harvest windows, better heat tolerance, longer shelf life, disease resistance, and suitability for export or processing. It also supports public-private partnerships and structured models like licensed and club varieties, making high-performing blueberries more accessible while strengthening sustainable supply chains.

UPOV is committed to raising awareness of enforcement matters related to the specific nature of plant varieties and the impact of inadequate or ineffective PBR enforcement on the development of the agricultural or horticultural sectors. For example, Mountain Blue Orchards recently won a legal battle over the unauthorised propagation, production, and sale of its blueberry variety *Ridley 1111*.

> **The recent ruling in China, by which Australian-based Mountain Blue Orchards won a legal battle over the unauthorised propagation, production, and sale of its *Ridley 1111* variety is an example that speaks of much of what UPOV's mandate implies. With Chinese growers and consumers benefiting by the certainty of what this ruling implies, we should see this example as one of the reasons of why indeed we should have no doubt that plant variety protection and enforcement is a responsibility we all share.**
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> Mario Steta
> *Chairman of the International Blueberry Organization*

With the accession of Nigeria on March 27, 2025, UPOV now has 80 members covering 99 States. You can view the full list at https://www.upov.int/edocs/pubdocs/en/upov_pub_423.pdf

About the International Blueberry Organization

The International Blueberry Organization (IBO) is a global alliance of blueberry producers, marketers, industry players, and affiliated associations. Its purpose is to support the sustainable growth of the blueberry sector by sharing information, promoting best practices, and fostering collaboration across the global supply chain. The IBO helps members stay informed through research, data insights, and annual summits. Membership includes national industry groups and leading companies from all major blueberry-producing regions. The IBO is funded through membership fees and sponsorships, with activities focused on improving transparency, innovation, and the long-term success of the blueberry industry worldwide.

Find out more at www.internationalblueberry.org