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To all the Members of the AIPPI - UAE National Group

Subject: 11th Circular/ 2023 / Exploring the Interplay between Plant Variety Regulations and Intellectual Property Rights

Dear all,

We hope you are all well.

We share this circular as authored by our national group member Tariq Al Alami and verified by Ahmad Saleh:

In the world of agriculture, the cultivation of new and innovative plant varieties is crucial for ensuring food security and advancing farming practices. Plant breeders, driven by the need to create robust and productive crops, often rely on two legal protection channels for the protection of their intangible assets: Plant Variety and Patents.

Presently, the legal framework for plant variety protection in the United Arab Emirates (“UAE”) is governed by Federal Law No.17 of 2009, which is synchronized with the principles of the International Convention for the Protection of New Varieties of Plants (UPOV) although the UAE is still not a member to UPOV. In the recent years, the Ministry of Environment and Climate Change has introduced a new amended law pertaining to the protection of plant varieties, to align with UPOV in order to accede to the UPOV convention. On April 28, 2020, the Ministry of Environment and Climate Change sent a letter to the Secretary-General of UPOV, requesting an examination of the draft Law on Plant Variety Protection in the UAE to ensure the provisions of the amended draft law follow the 1991 Act of the UPOV Convention.

Upon the adoption and publication of the amended draft law, UAE will be in a position “to give effect” to the provisions of the 1991 Act. This means that UAE will have the legal and institutional framework in place to ensure that plant breeders' rights are protected and that plant varieties are subject to the rules and regulations outlined in the 1991 Act. This includes mechanisms for granting

rights to breeders, defining the scope of those rights, and establishing procedures for variety examination and protection.

To be eligible for protection, a plant variety must be:

- New, meaning that it has not been commercialized for more than one year in the UAE, and it has not been commercialized for more than four years in a jurisdiction outside the UAE.
- Distinct, meaning that it is clearly distinguishable from any other known variety at the time of filing.
- Uniform, meaning that its relevant characteristics are sufficiently uniform from one plant to another when propagated according to a defined procedure.
- Stable, meaning that its relevant characteristics remain unchanged after repeated propagation according to a defined procedure.

The law also provides for certain exclusions from protection, such as plants that are wild or ornamental, or plants that are used for food or medicine.

The registration process for plant variety protection in the UAE is still not fully implemented. Applicants who wish to protect a plant variety, must submit an application to the Ministry of Climate Change and Environment. The application will undergo a formal examination (examination as to the formality requirements), and upon successful completion, it will proceed to the next step, which is the technical examination. If the application is successful, the Registrar will issue a decision granting the right to the plant varieties from the date of the technical examination. This decision will be published in the Official Gazette, and the Ministry will then grant the applicant a certificate of protection. It is worth noting that the official fees for filing, examination, and publication are currently set at zero. However, it is expected that these fees will be revised, and the amended fees will be announced upon the publication of the new law and the UAE's accession to the UPOV. The certificate of protection gives the holder the exclusive right to produce, sell, and export the protected plant variety for a period of 20 years from the date of the grant of the breeder's right. For trees and vines, the said period shall be 25 years from the said date. The holder of the certificate also has the right to prevent others from producing, selling, or exporting the protected plant variety without authorization.

By offering legal protection to plant varieties, breeders are incentivized to innovate and introduce new agricultural crops and traits.

Patents is another very important protection channel for plants and agriculture related innovations. The applicable channel depends on the nature of innovation and the relevant local laws where protection is sought.

Intellectual Property Protection (whether PV or Patents) encourage innovation by providing financial incentives and fostering competitiveness, ultimately leading to the introduction of better and more resilient plant varieties. On the other hand, some argue it limits access to plant genetic resources and the influence of large agricultural corporations in shaping the industry.

Regulators are looking ahead into the the future of agriculture which lies in a dynamic landscape of challenges and opportunities. Breeders face the task of balancing intellectual property protection with the need to provide broader access to plant genetic resources, especially for small-scale farmers and developing nations. As technology advances and global food security concerns persist, striking this

balance remains a pivotal challenge. The path forward requires a delicate balance that considers the interests of both breeders and the global population to ensure a sustainable and secure food supply.

Thanks to both Tariq and Ahmed for their time to finalize this circular which we trust you found informative and useful.

Kind regards,

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