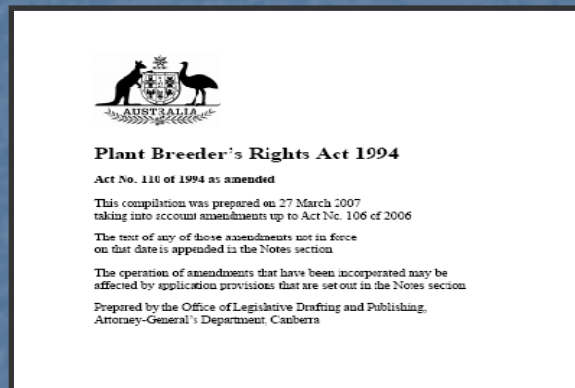


Disparity Between Science and Law?

Distinctiveness and Essential Derivation as (possible) Examples



	U	C	A	G	
U	UUU } Phe	UCU } Ser	UAU } Tyr	UGU } Cys	U
	UUC } Phe	UCC } Ser	UAC } Tyr	UGC } Cys	C
	UUA } Leu	UCA } Ser	UAA Stop	UGA Stop	A
	UUG } Leu	UCG } Ser	UAG Stop	UGG Trp	G
C	CUU } Leu	CCU } Pro	CAU } His	CGU } U	
	CUC } Leu	CCC } Pro	CAC } His	CGC } Arg	C
	CUA } Leu	CCA } Pro	CAA } Gln	CGA } Arg	A
	CUG } Leu	CCG } Pro	CAG } Gln	CGG } Arg	G
A	AUU } Ile	ACU } Thr	AAU } Asn	AGU } Ser	U
	AUC } Ile	ACC } Thr	AAC } Asn	AGC } Ser	C
	AUA } Met	ACA } Thr	AAA } Lys	AGA } Arg	A
	AUG } Met	ACG } Thr	AAG } Lys	AGG } Arg	G
G	GUU } Val	GCU } Ala	GAU } Asp	GGU } U	
	GUC } Val	GCC } Ala	GAC } Asp	GGC } Gly	C
	GUA } Val	GCA } Ala	GAA } Glu	GGA } Gly	A
	GUG } Val	GCG } Ala	GAG } Glu	GGG } Gly	G

Jay Sanderson
 Research Fellow, ACIPA
 Griffith University

Overview

- Possible disparity
- Distinctiveness
 - clearly distinguishable....expression of characteristics (s 43(2); s 3)
 - molecular techniques
- Essential Derivation
 - quantitative (scientific) representations

Possible Disparity

- Distinctiveness
 - phenotype/genotype
 - morphology/molecular markers
 - plant variety/genetic code
- Essential derivation
 - co-efficients, thresholds (quantitative)
 - important, significant, cosmetic (qualitative)



Distinctiveness

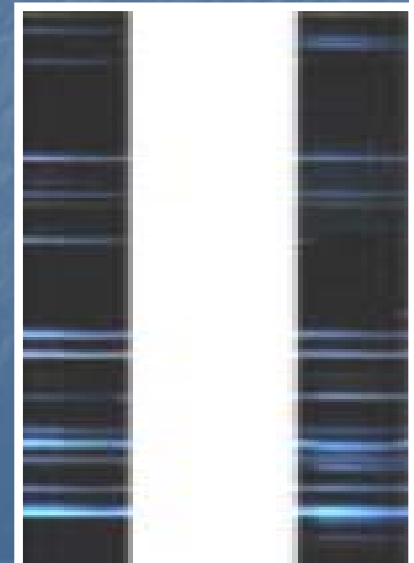
- Methodological framework
 - physically observable characteristics
- Assessment
 - e.g. length (very short; short; medium; long)
- Problems
 - validity
- Question
 - can molecular techniques be used?

Issues

- Relationship between phenotype and genotype
- Scope of plant breeder's right
 - definition of variety
- Technical (standardisation, methods, thresholds)
- Supplementary to observations
- Removal of distinctiveness requirement

Essential Derivation

- Assessment
 - genetic thresholds, distances, co-efficients (quantitative)
- Issues
 - not suitable for all varieties
 - absolute measures not feasible
 - legal interpretation (qualitative)



Conclusion

- There is a 'need to learn the language of the breeders of new varieties'

Freda Wuesthoff (First session of the Paris Conference for the Protection of New Varieties of Plants, 1956)

- ...scientists and lawyers must come to understand each others' language...