



Pioneer Overseas Corporation

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The Plant Variety protection in India follows additional tests besides Novelty, namely Distinctness, Uniformity and Stability (DUS) tests which are field based. The results of these tests are therefore not available to the public and the objections with respect to the distinctness of a plant variety were not being raised in a transparent manner. Anand and Anand patent team challenged this practice when registration of Pioneer's Maize plant variety P3436 was objected to as being identical to Kaveri Seeds plant variety KM25K55. The case was even intriguing as Pioneer has sued Kaveri for infringing their rights on registered plant variety 30B07 along with evidence that 30B07 is identically similar to KM25K55. The plant variety authority appreciated Anand and Anand arguments and recognized the need for transparency and the right to information of the Applicant to defend the objections raised by the Authority during prosecution. This order changes the practice of the Plant Variety Authority of not furnishing the DUS test data of co-pending applications which they rely upon for the objection of identical similarity. The order directed comparison data as well as DUS test results of variety P3436, variety KMH25K55 to be furnished to the appellant.

