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New plant varieties can take many years to develop. Most plant breeders rely on income from their varieties to pay for the work. This is why some plant breeders or their employers seek out intellectual property protections in one form or another — as a means of ensuring they are credited for and able to profit from the varieties they created. The most common intellectual property rights mechanisms are patents and Plant Variety Protections.

While it is true that some patented plants were developed using genetic engineering, the patented varieties offered by Johnny's were bred only using traditional breeding techniques.

UTILITY PATENT:

A utility patent is granted by the United States Patent and Trademark Office based on a specific attribute of an individual variety. In the case of Salanova® lettuce, the attributes that warrant the utility patents are the resistance to the *Nasonovia ribisnigri* aphid and the plant structure of the Cored Types.

A plant variety with a utility patent can only be used for crop production and cannot be used for seed saving to resell, give away, or replant. Under no circumstances can the variety be used in a breeding program except that of the patent holder. Utility patents protect a person's or company's investments by preventing others from using the patented material for 20 years. The assigned patent number gives notice that a patent exists and is in effect, and also allows for public access to the details of the patent.

PLANT PATENT:

Plant patents are for the protection of a unique vegetatively-produced variety. Plant patents cannot be granted for tuber-produced crops, such as potatoes and Jerusalem artichokes. Also, a plant patent does not inherently prohibit the use of the variety in a breeding program. Other than those differences, the other details of utility patents apply.

OPEN SOURCE:

In contrast to patents and Plant Variety Protections is the Open Source Seed Initiative (OSSI). It is an effort modeled after other open-source materials, such as computer software, to support access to varieties and plant genetics for use by all, whether it is planting, seed saving, or the development of new varieties. OSSI disallows patent or PVP protection.

PLANT VARIETY PROTECTION:

A Plant Variety Protection (PVP) is granted by the United States Department of Agriculture. It protects a unique seed- or tuber-produced variety by prohibiting unauthorized commercialization. The PVP remains in effect for 20 years unless the protection covers a perennial tree or vine species, in which case the protection is 25 years. Generally, a PVP is only sought after for open-pollinated (non-hybrid) varieties, however, hybrid varieties may still be issued a PVP.

A grower may save the seeds of a PVP variety for planting for their own use only, but cannot legally distribute the seeds in any way. It is only when a PVP has expired that seed production for distribution is allowable. A PVP-protected variety may be used in any breeding program, except it may not be used as a parent line in a F1 hybrid. For more information about PVP, visit the following website: <https://www.ams.usda.gov/services/plant-variety-protection/pvpo-frequently-asked-questions>