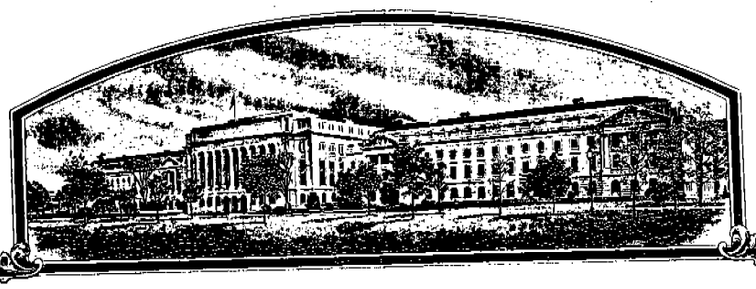


No. 7500041

THE UNITED STATES OF AMERICA

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Quali-Sel, Inc.

Whereas, THERE HAS BEEN PRESENTED TO THE

Secretary of Agriculture

AN APPLICATION REQUESTING A CERTIFICATE OF PROTECTION FOR AN ALLEGED NOVEL VARIETY OF SEXUALLY REPRODUCED PLANT, THE NAME AND DESCRIPTION OF WHICH ARE CONTAINED IN THE APPLICATION AND EXHIBITS, A COPY OF WHICH IS HEREUNTO ANNEXED AND MADE A PART HEREOF, AND THE VARIOUS REQUIREMENTS OF LAW IN SUCH CASES MADE AND PROVIDED HAVE BEEN COMPLIED WITH, AND THE TITLE THERETO IS, FROM THE RECORDS OF THE PLANT VARIETY PROTECTION OFFICE, IN THE APPLICANT(S) INDICATED IN THE SAID COPY, AND WHEREAS, UPON DUE EXAMINATION MADE, THE SAID APPLICANT(S) IS (ARE) ADJUDGED TO BE ENTITLED TO A CERTIFICATE OF PLANT VARIETY PROTECTION UNDER THE LAW.

NOW, THEREFORE, THIS CERTIFICATE OF PLANT VARIETY PROTECTION IS TO GRANT UNTO THE SAID APPLICANT(S) AND THE SUCCESSORS, HEIRS OR ASSIGNS OF THE SAID APPLICANT(S) FOR THE TERM OF seventeen YEARS FROM THE DATE OF THIS GRANT, SUBJECT TO THE PAYMENT OF THE REQUIRED FEES AND PERIODIC REPLENISHMENT OF VIABLE BASIC SEED OF THE VARIETY IN A PUBLIC REPOSITORY AS PROVIDED BY LAW, THE RIGHT TO EXCLUDE OTHERS FROM SELLING THE VARIETY, OR OFFERING IT FOR SALE, OR REPRODUCING IT, OR IMPORTING IT, OR EXPORTING IT, OR USING IT IN PRODUCING A HYBRID OR DIFFERENT VARIETY THEREFROM, TO THE EXTENT PROVIDED BY THE PLANT VARIETY PROTECTION ACT (84 STAT. 1542, AS AMENDED, 7 U.S.C. 2321 ET SEQ.)

LETTUCE

'Excell'

PLANT VARIETY PROTECTION OFFICE · U.S. DEPARTMENT OF AGRICULTURE

In Testimony Whereof, I have hereunto set my hand and caused the seal of the Plant Variety Protection Office *to be affixed at the City of* Washington *this* 17 th *day of* October *in the year of our Lord one thousand nine hundred and* seventy-five

Attest:

Commissioner
Plant Variety Protection Office
Grain Division
Agricultural Marketing Service

Secretary of Agriculture

FORM GR-470
(12-15-72)

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE
GRAIN DIVISION
HYATTSVILLE, MARYLAND 20782

FORM APPROVED
OMB NO. 40-R3712

APPLICATION FOR PLANT VARIETY PROTECTION CERTIFICATE

INSTRUCTIONS: *See Reverse.*

1. VARIETY NAME OR TEMPORARY DESIGNATION EXCELL	2. KIND NAME Lettuce	FOR OFFICIAL USE ONLY PV NUMBER 7500041
3. GENUS AND SPECIES NAME Lactuca sativa L.	4. FAMILY NAME *(Botanical)* Compositae	FILING DATE 12·16·74 / TIME 10 A.M.
	5. DATE OF DETERMINATION 10/18/74	FEE RECEIVED $ 250 / $ 250 / $ 250 — BALANCE DUE $ — / $ — / $ —
6. NAME OF APPLICANT(S) QUALI-SEL, INC.	7. ADDRESS *(Street and No. or R.F.D. No., City, State, and ZIP Code)* 11 W. Laurel Drive, Suite 125 Salinas, CA 93901	8. TELEPHONE AREA CODE AND NUMBER (408) 443-1013
9. IF THE NAMED APPLICANT IS NOT A PERSON, FORM OF ORGANIZATION: *(Corporation, partnership, association, etc.)* Corporation	10. STATE OF INCORPORATION California	11. DATE OF INCORPORATION March 1, 1972

12. Name and mailing address of applicant representative(s), if any, to serve in this application and receive all papers:

George J. Netter, Esquire
Kendrick and Subkow
612 South Flower Street
Los Angeles, CA 90017

13. CHECK BOX BELOW FOR EACH ATTACHMENT SUBMITTED:

[XX] 13A. Exhibit A, Origin and Breeding History of the Variety *(See Section 52 of the Plant Variety Protection Act.)*

[XX] 13B. Exhibit B, Botanical Description of the Variety

[XX] 13C. Exhibit C, Objective Description of the Variety

[XX] 13D. Exhibit D, Data Indicative of Novelty

[XX] 13E. Exhibit E, Statement of the Basis of Applicant's Ownership

14A. Does the applicant(s) specify that seed of this variety be sold by variety name only as a class of certified seed? *(See Section 83(a). (If "Yes," answer 14B and 14C below.)* [ ] YES [XX] NO

14B. Does the applicant(s) specify that this variety be limited as to number of generations? [ ] YES [XX] NO

14C. If "Yes," to 14B, how many generations of production beyond breeder seed? [ ] FOUNDATION [ ] REGISTERED [ ] CERTIFIED

The applicant declares that a viable sample of basic seed of this variety will be deposited upon request before issuance of a certificate and will be replenished periodically in accordance with such regulations as may be applicable.

The undersigned applicant(s) of this sexually-reproduced novel plant variety believes that the variety is distinct, uniform, and stable as required in Section 41 and is entitled to protection under the provisions of Section 42 of the Plant Variety Protection Act.

Applicant is informed that false representation herein can jeopardize protection and result in penalties.

December 6, 1974
(DATE)

Nathan J. Olivas
(SIGNATURE OF APPLICANT)
Nathan J. Olivas, President

(DATE)

(SIGNATURE OF APPLICANT)

FORM GR-470 (REVERSE)

RECEIVED DEC 16 '74 U.S. DEPARTMENT OF AGRICULTURE AMS, GRAIN DIV. PVPO

INSTRUCTIONS

GENERAL: Send an original copy of the application, exhibits and $250.00 fee to U.S. Dept. of Agriculture, Agricultural Marketing Service, Grain Division, 6525 Belcrest Road, Hyattsville, Maryland 20782. (See Section 180.175 of the regulations and rules of practice.) Retain one copy for your files. All items on the face of the form are self-explanatory unless noted below.

ITEM

5 Insert the date the applicant determined that he had a new variety based on the definition in Section 41 (a) of the Act and decision is made to increase the seed.

13a First, give the genealogy, including public and commercial varieties, lines, or clones used, and the breeding method. Second, give the details of subsequent stages of selection and multiplication. Third, indicate the type and frequency of variants during reproduction and multiplication and state how these variants may be identified. Fourth, provide evidence on stability.

13b First, give any special characteristics of the seed and of the plant as it passes through the seedling stage, flowering stage and the fruiting stage. Second, describe the mature plant and compare it with a similar commercial variety grown under the same conditions, and indicate the differences.

13c A supplemental form will be furnished by the PVPO to describe in detail a variety for each kind of seed.

13d Provide complete data indicative of novelty. Seed and plant specimens or photographs of seed and plant comparisons clearly indicating novelty may be submitted. Seeds submitted may be sterile.

13e Indicate whether applicant is the actual breeder, the employer of the breeder, the owner through purchase or inheritance, etc.

Plant Variety Protection

EXCELL

EXHIBIT A

Origin and breeding history of the variety:

1. EXCELL originated from a single plant selection from "Empire" made in 1972 in the San Joaquin Valley of California.

2. No off-types were observed in subsequent trial plantings. The selection was based on earlier maturity, color and frame appearance.

Plant Variety Protection

EXCELL

EXHIBIT B

Botanical Description of the Variety:

Annual. A crisphead type with medium sized frame. Wrapper leaves are broad, growth is more upright than "Empire." Frame size is smaller than "Empire." Earlier maturing than "Empire."

Head is spherical. Butt of plant is similar to "Empire" in smoothness and is greener in color. Petioles are smooth.

Seedstalk is uniformly medium in height. Produces a medium size panicle (similar to Empire) and as a seed producer is similar to "Empire" in yield. Seed color is brown.

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE
GRAIN DIVISION
HYATTSVILLE, MARYLAND 20782

EXHIBIT C

OBJECTIVE DESCRIPTION OF VARIETY
(LETTUCE)

EXHIBIT C

INSTRUCTIONS: See reverse.

NAME OF APPLICANT(S)
QUALI-SEL, INC.

ADDRESS (Street and No. or R.F.D. No., City, State, and ZIP Code)
11 W. Laurel Drive, Suite 125
Salinas, CA 93901

FOR OFFICIAL USE ONLY
PVPO NUMBER
297 - 1 - 7500041

VARIETY NAME OR TEMPORARY DESIGNATION
EXCELL

Place the appropriate number that describes the varietal character of this variety in the boxes below.

1. PLANT TYPE: [4][4]
10 = CUTTING (Leaf) 20 = STALK
50 = BUTTERHEAD 60 = LATIN
70 = OTHER (Specify) _____

30 = COS
31 = SELF-CLOSING GROUP
32 = LOOSE-CLOSING GROUP

40 = CRISPHEAD
41 = IMPERIAL GROUP
42 = GREAT LAKES GROUP
43 = VANGUARD
44 = NEW YORK GROUP

2. SEED COLOR: [4] 1 = WHITE 2 = BLACK 3 = YELLOW 4= Brown

3. ANTHOCYANIN: [1] 1 = ABSENT 2 = PRESENT

4. LEAF CONTAINING ANTHOCYANIN: [4] 1 = COVERED 2 = SPOTTED 3 = ALONG MARGIN 4 = ABSENT 5 = OTHER (Specify) _____

5. LEAF SURFACE TEXTURE: [2] 1 = SMOOTH 2 = BLISTERED

6. LEAF SURFACE REFLECTANCE: [3] 1 = DULL 2 = GLOSSY 3 = OTHER (Specify) Semi-glossy

7. LEAF MARGIN: [2] 1 = STRAIGHT 2 = WAVY 3 = CURLED

[1] 1 = ENTIRE 2 = DENTATE 3 = INCISED 4 = DEEPLY INCISED 5 = OTHER (Specify) _____

8. LEAF SHAPE: [1] 1 = ROUNDED 2 = POINTED

[1] 1 = BROADER THAN LONG 2 = LONGER THAN BROAD 3 = OTHER (Specify) _____

9. LEAF COLOR: (See reverse.) [4] 1 = RED 2 = REDDISH-BROWN 3 = YELLOW 4 = YELLOWISH-GREEN 5 = GREYISH-GREEN 6 = BLUE-GREEN 7 = DARK-GREEN 8 = VERY DARK GREEN

10. HEADS: [1] 1 = SPHERICAL 2 = FLATTENED 3 = ELONGATE 4 = POINTED 5 = NON-HEADING

11. PLANT SIZE: (See reverse.) [2] 1 = SMALL 2 = MEDIUM 3 = LARGE

12. CULTURE: [5] 1 = SUMMER CROP 2 = WINTER CROP 3 = NOT SPECIFIC 4 = UNDER GLASS 5 = OTHER (Specify) Fall

13. SIZE OF 10-DAY OLD SEEDLING GROWN UNDER CONSTANT LIGHT (Growth Chamber) **AT 25° C.:** (Place a zero in first box (i.e. [0][2]) when size is 9 mm. or less.)

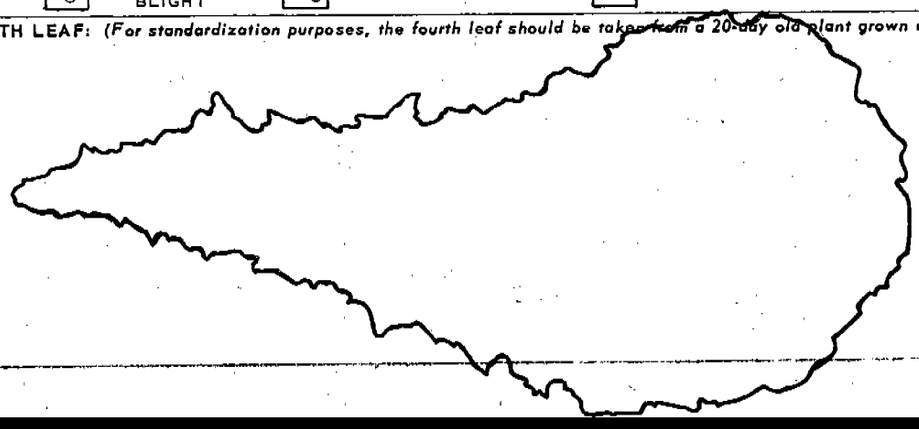
[1][0][8] mm. LENGTH OF SEEDLING [1][7] mm. LENGTH OF COTYLEDON [0][3] mm. WIDTH OF COTYLEDON

14. DISEASE RESISTANCE TO: (Enter zeroes in box(es) where there is no special disease resistance.)

[1] 1 = TIPBURN [1] 2 = MOSAIC [1] 3 = DAMPING OFF [1] 4 = DOWNY MILDEW
[1] 5 = SCLEROTINIA ROT [0] 6 = BROWN BLIGHT [0] 7 = BIG VEIN [ ] 8 = OTHER (Specify) _____

0= Not tested
1= Susceptible
2= Resistant

15. OUTLINE THE FOURTH LEAF: (For standardization purposes, the fourth leaf should be taken from a 20-day old plant grown under constant light.)



7500041

FORM GR-471 (REVERSE)

16. INDICATE WHICH VARIETY MOST CLOSELY RESEMBLES THAT SUBMITTED:

CHARACTER	NAME OF VARIETY
Leaf color	Empire
Leaf pigmentation	Empire
Leaf shape	Empire
Plant size	Empire
Head size	Empire

VARIETY	NO. OF DAYS TO HEAD MATURITY UNDER WINTER CROPPING	LOCATION	NO. OF DAYS TO HEAD MATURITY UNDER ~~SUMMER~~ Fall CROPPING	LOCATION	NO. OF DAYS TO SEED STALK EMERGENCE UNDER SUMMER CROPPING	LOCATION
Submitted		NOT TESTED	69	San Joaquin Valley	67 days	San Joaquin Valley
Similar			72	"	67 days	" "
Name of similar variety			Empire		Empire	

INSTRUCTIONS

GENERAL: The following publications may be used as a reference aid for completing this form:

1. C. M. Rodenburg, 1960, Varieties of Lettuce, An International Monograph, Institunt Voor de Veredeling van Tuinbouwgewassen, Wageningen, Holland.

2. L. L. Morse, 1930, Field Notes on Lettuce, published by Ferry-Morse Seed Co.

LEAF COLOR: Nickerson's or any recognized color fan may be used to determine the leaf color of the described variety. The following lettuce varieties may be used as a guide to identify the eight colors listed on the form.

Color	Variety
Red	"Salad Trim"
Reddish-brown	"Ruby"
Yellow	"Salad Bowl"
Yellowish-green	"Oakleaf"
Greyish-green	"White Boston"
Bluish-green	"Bibb"
Dark-green	"Imperial" group
Very dark green	"Deer Tongue"

PLANT SIZE: The following varieties may be used as a guide to identify the plant type size:

TYPE	COMPARABLE VARIETIES		
	SMALL	MEDIUM	LARGE
Cutting (leaf)	Boston-Curled	Prize Head	Grand Rapids
Stalk (stem)	Celtuce	--	--
Cos	Express	Parris Island	Giant White
Crisphead	Mignonette	Hanson (Merit)	Climax
Butterhead	Tom Thumb	Big Boston	Mammoth Butter
Latin	Sucrine	Creole	Deer Tongue

Plant Variety Protection

EXCELL

EXHIBIT D

Data Indicative of Novelty

Excell most closely resembles the variety Empire. The distinguishing features of Excell compared to Empire include:

1. Seed color is brown, Empire seed color is black.
2. Marketing maturity of Excell is approximately three days earlier than Empire.
3. Excell frame size is slightly smaller than the Empire frame size.
4. Excell color is a slightly darker shade of green.
5. The core height is approximately one core shorter than the core height on Empire.
6. Tip burn tolerance is greater on Excell than Empire.

7500041

Plant Variety Protection

EXCELL

EXHIBIT E

The applicant is a breeder. All rights have been assigned to QUALI-SEL, INC.

EXHIBIT F

to
ASSET ACQUISITION AGREEMENT
by and between
QUALI-SEL, INC., a Delaware corporation,
and
KONINKLIJKE ZAAIZAADBEDRIJVEN GEBROEDERS SLUIS, B.V.,
a corporation formed under the laws of The Netherlands

ASSIGNMENT OF PLANT VARIETY PROTECTION CERTIFICATES
AND PLANT VARIETY PROTECTION CERTIFICATE APPLICATIONS

WHEREAS, QUALI-SEL, INC., a Delaware corporation the mailing address for which is P.O.Box 4370,Salinas, California U.S.A., 93912-4370, is the owner of certain Plant Variety Protection Certificates issued either to QUALI-SEL, INC., or to BRUCE CHURCH, INC., a California corporation by the Plant Variety Protection Office or by the United States Department of Agriculture, all as listed below (referred to collectively as the "PVPs"); and

WHEREAS, KONINKLIJKE ZAAIZAADBEDRIJVEN GEBROEDERS SLUIS, B.V., a corporation formed under the laws of The Netherlands, the mailing address for which is Post Box 22, 1600 AA Enkuisen, The Netherlands, is desirous of acquiring the PVP's and the certificates and application thereof;

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, QUALI-SEL, INC. and BRUCE CHURCH, INC. hereby assigns to KONINKLIJKE ZAAIZAADBEDRIJVEN GEBROEDERS SLUIS, B.V. all right, title and interest in and to the PVPs.

The Plant Variety Protection Office is requested to record the assignment of the PVPs (and acknowledge transfer of the ownership of the application, referred to above) in accordance with Section 101 of the Plant Variety Protection Act (7 U.S.C. 2531).

PVP Certificate Number	Date of Issuance	Owner	Name of Variety	PVP Issued To
7600003	Sept. 7, 1976	Quali-Sel, Inc.	Domingos 43	Quali-Sel, Inc.
7500041	Oct. 17, 1975	Quali-Sel, Inc.	Excell	Quali-Sel, Inc.
7800083	Mar. 1, 1979	Quali-Sel, Inc.	Amaral 400	Quali-Sel, Inc.

PVP Application Number	Date of Filing	Owner	Name of Variety	Applicant
8800022	Nov. 27, 1987	Quali-Sel, Inc.	Lajolla	Bruce Church, Inc.

This assignment is executed this 7th day of March, 1988, at Salinas, California.

Bruce Church, Inc.

By _____

Its President

Quali-Sel, Inc.

By _____

Its Vice President

Acknowledgement for Corporation

State of California)
) SS
County of Monterey)

On this 7th day of March, in the year 1988, before me Edward H. Taylor, personally known to me to be the person who executed the within instrument as president of Bruce Church, Inc. and vice president of Quali-Sel, Inc. and acknowledged to me that the corporation executed it.

OFFICIAL SEAL
ROBIN F. AINSWORTH
Notary Public-California
MONTEREY COUNTY
My Comm. Exp. Sep. 1, 1990

_____
Notary Public