

## South Africa: Citrogold back in court on Tango mandarin

Plant Breeder's Rights have been awarded and 4 producers are already growing the Tango variety, but Citrogold has advised caution as it returns to court.

The case will be argued in the Western Cape Division of the High Court in Cape Town. The interdict application brought by NCP & Citrogold against Eurosemillas, Stagrow and other.

One of the key requirements for a variety to be regarded as essentially derived, is that it must be clearly distinct from its parent variety. This matter is currently the subject of the court case.

In deciding whether to award a Plant Breeders Right (PBR) to a variety, the Registrar of Plant Breeders Rights will consider whether a variety is novel, distinct, uniform and stable. By definition, an essentially derived variety must be clearly distinguishable from the parent from which it was developed.

"The fact that Tango has been awarded a PBR in Spain and now in South Africa, is consistent with the notion that an essentially derived variety must be distinct from the parent variety, and can be awarded a separate PBR. However, in both South Africa and Spain, where Nadorcott also has a valid PBR, the licensing of plantings of Tango is being challenged by the NCP in the courts. These legal challenges have the basis that Tango is an essentially derived variety of Nadorcott and therefore the NCP must authorise any Tango plantings being undertaken."

Citrogold advises South African citrus growers not to misinterpret the granting of the Plant Breeders Right by the Registrar of Plant Breeders Rights in South Africa to mean that the Tango is not essentially derived from Nadorcott. Citrogold advises growers to take a cautionary approach and to wait for an outcome of the legal proceedings that will determine if Tango is essentially derived from Nadorcott before making any costly long-term planting decisions. If Tango is determined by the courts to be an essentially derived variety of Nadorcott, authorisation from the NCP will have to be obtained for plantings of Tango in South Africa and for the fruit export into the European Union.

Publication date: 4/21/2016

© 2016 FreshPlaza. All rights reserved.

