

(390) Proposal to clarify “inclusion of the type in a different taxon” in Article 48.1

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In general terms, Art. 48.1 of the *Shenzhen Code* (Turland & al. in *Regnum Veg.* 159. 2018) states that a homonym is published if the author adopts an existing name but definitely excludes its type and that a name of a new taxon is published if the author adopts a name with an apparent basionym or replaced synonym but “explicitly excludes its type”. Article 48.2 states “For the purpose of Art. 48.1, exclusion of a type means exclusion of (a) the holotype under Art. 9.1 or the original type under Art. 10 or all syntypes under Art. 9.6 or all elements eligible as types under Art. 10.2; or (b) the type previously designated under Art. 9.11–9.13 or 10.2; or (c) the type previously conserved under Art. 14.9.”

The last sentence of Art. 48.1 adds that “Exclusion can be effected by simultaneous explicit inclusion of the type in a different taxon by the same author.” Read by itself, this sentence arguably provides that the type is excluded if an element designated as the type in the future is included in another name. Because Art. 48.2 defines “exclusion of a type”, it is not clear if Art. 48.2 applies for purposes of the “inclusion of the type” rule in the last sentence of Art. 48.1.

The issue is not merely academic. Some index authorities treat both *Cereus triangularis* Mill. and *C. lanuginosus* Mill. as correct names, while some use either *C. triangularis* (L.) Mill. or *C. lanuginosus* (L.) Mill. In each case, Miller (Gard. Dict., ed. 8. 1768) included an illustration cited in the protologue of the Linnaean apparent basionym in a different taxon. A few centuries later, the illustration was designated as the type of the apparent basionym.

It makes no sense that the explicit exclusion of a type designated in the future results in a new combination, but its inclusion in another taxon results in the name of a new taxon. If that were correct, *Cereus triangularis* and *C. lanuginosus* were new combinations for about two centuries, but then became names of a new taxon when the apparent basionym was typified. The better reading of the last sentence of Art. 48.1 is as follows: “Exclusion [of the type (as qualified in Art. 48.2)] can be effected by simultaneous explicit inclusion of the type [as type is specified in Art. 48.2] in a different taxon by the same author.”

The above analysis is consistent with the history of Art. 48. Prior to the *Melbourne Code* (McNeill & al. in *Regnum Veg.* 154. 2012), Art. 48 simply referred to the “original type”. The *Melbourne Code* added Art. 48.2 to include holotypes and other ways to exclude the type. This change was not intended to provide that later-designated types could be taken into account under Art. 48, and this proposal clarifies that point.

Because Art. 48.2 defines exclusion of the type, it would appear more appropriate to move the last sentence of Art. 48.1 to Art. 48.2. This would be consistent with Art. 52.2, which defines inclusion of the type in much the same way as Art. 48.2 but includes another way to include the type in Art. 52.2(e).

(390) Delete the last sentence of Art. 48.1 and move it to Art. 48.2 amended as follows (new text in bold, deleted text in strikethrough):

“48.1. When an author adopts an existing name but definitely excludes its type, a later homonym that must be attributed solely to that author is considered to have been published. Similarly, when an author who adopts a name refers to an apparent basionym or replaced synonym but explicitly excludes its type, the name of a new taxon is considered to have been published that must be attributed solely to that author. ~~Exclusion can be effected by simultaneous explicit inclusion of the type in a different taxon by the same author.~~”

“48.2. For the purpose of Art. 48.1, exclusion of a type means exclusion of (a) the holotype under Art. 9.1 or the original type under Art. 10 or all syntypes under Art. 9.6 or all elements eligible as types under Art. 10.2; or (b) the type previously designated under Art. 9.11–9.13 or 10.2; or (c) the type previously conserved under Art. 14.9. **Exclusion can be effected by (d) simultaneous explicit inclusion of the type (as type is specified in the preceding sentence) in a different taxon by the same author.**”

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