



Invention & Industry

# Sui Generis Rights

Plant Patent

Plant Variety Protection

Mask Work Protection

Vessel Hull Protection

Eric E. Johnson

[ericejohnson.com](http://ericejohnson.com)



Konomark  
Most rights sharable



Invention & Industry

# Plant Patent

Eric E. Johnson

[ericejohnson.com](http://ericejohnson.com)



Konomark  
Most rights sharable

## Plant patents - basics

- Like utility and design patents, issued by USPTO after an application process
- Covers asexually reproduced plants
- Source of law: Plant Patent Act (1930), 35 U.S.C. §§ 161-164
- Duration: 20 year term of protection from filing of application



US000000000000

<p>(1) <b>United States Plant Patent</b> <b>Hartman</b></p> <p>(5) <b>CALADIUM PLANT NAMED "WHITE DYNASTY"</b></p> <p>(6) <b>Latin Name: Caladium chlorostictum</b> <b>Varietal Denomination: "White Dynasty"</b></p> <p>(7) <b>Inventor: Robert Dale Hartman, 1 Lake Placid, FL 33903</b></p> <p>(*) <b>Notes:</b> Inherent to any disclosure that the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 5 days.</p> <p>(2) <b>Appl. No. 13306270</b></p> <p>(3) <b>Filed: Jan. 6, 2010</b></p> <p>(4) <b>Int. Cl. Class. 2006.01</b></p>	<p>(10) <b>Patent No.:</b> <b>US PP22,240 P2</b></p> <p>(11) <b>Date of Patent:</b> <b>Nov. 8, 2011</b></p> <p>(12) <b>U.S. Cl.:</b> <b>2501.101</b></p> <p>(13) <b>Field of Classification Search:</b> <b>2501.101</b></p> <p>See application file for complete search history.</p> <p>Primary Examiner — Susan McCreath-Tweedy (34) Attorney Agent or Firm — C.A. Kluwe</p> <p>(17) <b>ABSTRACT</b></p> <p>A new and distinct cultivar of Caladium plant named "White Dynasty", characterized by its upright and branching plant habit, intermediate to tall plant size, uniform green plant habit with or without the existing pattern, vigorous and dense growth habit, but growth rate and height lower than that of white and green plants with low red and purple colored spots, dark green variegated margins and purple green colored venation.</p> <p style="text-align: center;"><b>4 Drawing Sheets</b></p>
--	---

**1**

Botanical description: Caladium chlorostictum.  
Cultivar denomination: "WHITE DYNASTY".

**BACKGROUND OF THE INVENTION**

The present invention relates to a new and distinct cultivar of Caladium plant, botanically known as Caladium chlorostictum, commercially referred to as a lower leafy plant Caladium, and hereinafter referred to by the name "White Dynasty".

The objective of the inventor's breeding program is to obtain new Caladium plants that have uniform plant habit, intermediate to tall plant habit, vigorous and dense growth habit, but growth rate and height lower than that of white and green plants with low red and purple colored spots.

The new Caladium plant originated from a cross-pollination between the inventor's parent plant, 1 Lake Placid, Fla. (the Caladium plant named "White Dynasty", registered on the Florida and United States with Caladium chlorostictum "White Dynasty", not patented, in the state, or prior, parent. The new Caladium plant was developed and obtained by the inventor as a single plant within the progeny of the initial cross-pollination in a controlled outdoor nursery environment in Lake Placid, Fla. on Aug. 15, 2004.

Actual inspection of the new Caladium plant by Robert Dale Hartman is conducted under strictly controlled conditions. The phenotype may only appear with variation in an outdoor such as in the position and light intensity without, however, any variation in genotype.

The following traits have been repeatedly observed and are characteristic of the new Caladium plant named "White Dynasty". These characteristics are: uniform coloration throughout the plant, and distinct Caladium plant.

**2**

1. Upright and branching plant habit, intermediate to tall plant size.

2. Uniform green plant habit with or without the existing pattern.

3. Vigorous and dense growth habit.

4. Fast growth rate.

5. Leafy plant habit that are white and green with low red and purple colored spots, dark green with and margin and purple green venation.

Plants of the new Caladium differ primarily from plants of the female parent, "White Dynasty", in the following characteristics:

1. Plants of the new Caladium grow faster than plants of "White Dynasty".
2. Plants of the new Caladium have broader leaves than plants of "White Dynasty".
3. Plants of the new Caladium and "White Dynasty" differ in leaf coloration and venation of "White Dynasty" have white and green variegated leaves with variegated green venation and purple green venation.
4. Plants of the new Caladium can be compared to plants of "Jackie's Mother", not patented, in side-by-side comparisons conducted in Lake Placid, Fla., plants of the new Caladium differ primarily from plants of "Jackie's Mother" in the following characteristics:
1. Plants of the new Caladium grow faster than plants of "Jackie's Mother".
2. Plants of the new Caladium have white and green upright plant habit of "Jackie's Mother".
3. Plants of the new Caladium have uniform coloration throughout the plant of "Jackie's Mother" have white and green upright plant habit of "Jackie's Mother".



### Plant patent - requirements

- Asexually reproduced (budding, grafting)
- Plant (including macro fungi, but not bacteria)
- Distinct
- Must be clearly distinguishable from other varieties (color, taste, disease resistance)
- New
- Can be invented or discovered if discovered in a cultivated area
- Description requirement is relaxed compared to utility patents

## Plant patent - infringement

- In practicality, an infringing plant must be a vegetative descendant of the patented plant
- Not infringement to sell fruit, flowers, seeds, etc.
- Sports (somatic mutants) are non-infringing of the parent patent and are potentially separately patentable



Invention & Industry

## Plant Variety Protection

Eric E. Johnson

[ericejohnson.com](http://ericejohnson.com)



Konomark  
Most rights sharable

### **Plant variety protection - basics**

- Protects stable sexually reproducing varieties
- Administered through USDA, not PTO
- Source of law: Plant Variety Protection Act (1970), 7 U.S.C. §§ 2321-2582
- Duration: 20 years generally, 25 years for trees and vines

### **Plant variety protection - requirements**

- Sexually reproducing
- Plant (not bacteria, fungi)
- New
- Distinct
- Uniform
- Stable



### Plant variety protection - infringement

- Sexual reproduction and selling of seeds is infringement
- Protects against creation of derivative plant lines also
- An exemption allows farmers to save and plant seeds (otherwise, seed sales are infringing)
- A research exemption allows use for breeding to develop a new variety

### some practice ...

Kate discovered a new variety of plant in the rain forest. It is an asexually reproducing variety that creates a valuable pharmaceutical compound. What can be obtained to protect it?

- (a) a plant patent, but not a PVPA certificate
- (b) a PVPA certificate, but not a plant patent
- (c) both a plant patent and a PVPA certificate

 (d) neither a plant patent nor a PVPA certificate



Invention & Industry

# Mask Work Protection

Eric E. Johnson

[ericejohnson.com](http://ericejohnson.com)



Konomark  
Most rights sharable

## Mask work protection

- Protects original mask works for making semi-conductor chips
  - A mask work is a two- or three-dimensional layout of an integrated circuit on a semiconductor chip.
- Source of law: Semiconductor Chip Protection Act (1984), 17 U.S.C. §§ 901-914
- Duration: 10 years



## Mask work protection

- Administered through Library of Congress Copyright Office
- Must be registered with the Copyright Office for protection to commence.

```
Type of Work:      Mask Work
Registration Number / Date:  W01000029263 / 2011-06-14
Title:            Mask work as contained AOC120500A.
Description:      4 semiconductor chips in housings * col. composite plot.
Copyright Claimant:  National Semiconductor Corporation
Date of First Exploitation:  27May11
Basis of Claim:    New Matter: mask work.
Other Title:      AOC120500A.
Name:            National Semiconductor Corporation
*****
```



Invention & Industry

# Vessel Hull Protection

Eric E. Johnson

[ericejohnson.com](http://ericejohnson.com)



Konomark  
Most rights sharable

## Vessel hull protection - basics

- Protects vessel hulls, plus superstructure, per later amendment
- Source of law: Vessel Hull Design Protection Act (1998), 17 U.S.C. §§ 1301-1332-914
- Duration: 10 years

## Vessel hull protection - requirements

- Must be embodied in an actual vessel hull.  
(There is no protection for designs existing only in models, drawings, or representations.)
- Staple or commonplace designs cannot be protected.
- Must be registered with the Copyright Office for protection to commence.
- Made-public bar: An application for registration must be filed no later than two years after the hull was publicly exhibited, or distributed or offered to the public for sale with the design owner's consent.

Copyright Office fees are subject to change.  
For current fees, visit [www.copyright.gov](http://www.copyright.gov).

**Form D-VH**  
DESIGN VESSEL HULL PROTECTION  
REGISTRATION APPLICATION

DATE OF REGISTRATION/PUBLICATION  
2 15 2012

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET. (Form D-VH-001)

Please give the title and model of the vessel that embodies the design.

**TITLE**  
(a) What is the type or style of the design for which registration is sought?  
E.g., Boat, Ship, Yacht, etc. Small Craft, Canoe

**DESIGN**  
(b) Provide a brief general statement setting forth the salient features of the design.  
Small boat, canoe, with a small cabin.

☒ This design is derived from an earlier design. Describe how that design has been revised, adapted, or merged.  
Small boat, canoe, with a small cabin.

**DESIGNER(S)**  
Provide the name and address of the designer(s). The name of the employer may be given instead of the designer(s) if (1) the design was made within the regular scope of employment of the designer(s) and (2) the employer authorized the design in writing.  
☒ I am the designer.  
Name: John Doe Address: 123 Main St, New York, NY 10001

**OWNER, IF NOT DESIGNER**  
If the owner is different from the designer(s) or employer named above, provide the name and address of the owner.  
Name: John Doe Address: 123 Main St, New York, NY 10001

**PRIORITY CLAIM**  
(a) Was an application for registration of this design filed in a foreign country? ☒ Yes ☐ No. If yes, identify the country and date of application.  
(b) Was an application filed in a foreign country that extends to designs of vessels who are citizens of the United States, or to persons filing applications in the United States, similar protection to the one provided in 17 USC, chapter 13?  
☒ Yes ☐ No. Serial No. 123456789

**DATE MADE PUBLIC**  
If you, or your client, have made the design public before the date of application, provide the date.  
Date: 1/15/12

**MORE ON BACK**

