



Invention & Industry

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Plant Patent

Plant Variety Protection

Mask Work Protection

Vessel Hull Protection

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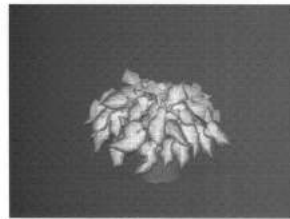
Plant patents - basics

- 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



US6099122492

<p>(12) United States Plant Patent Hortman</p> <p>(54) CALABRO PLANT NAMED "WHITE DYNASTY"</p> <p>(58) Label Name: Calabro, hortulanum National/Naturalization: White Dynasty</p> <p>(59) Inventor: Robert Dick Hortman, Lake Forest, IL (US)</p> <p>(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 0 days.</p> <p>(21) Appl. No.: 13/962,279</p> <p>(22) Filed: Aug. 9, 2010</p> <p>(51) Int. Cl.: AGPZ 5.00 (2006.01)</p> <p style="text-align: center;">1</p> <p>(Inventor designation: Calabro, hortulanum. Calabro designation: "WHITE DYNASTY")</p> <p style="text-align: center;">BACKGROUND OF THE INVENTION</p> <p>The present invention relates to a new and distinct culture of Calabro plant, hereinafter known as Calabro, hortulanum, hereinafter referred to herein as a large leaf-type Calabro, and hereinafter referred to by the name "White Dynasty".</p> <p>The objective of the inventor's breeding program is to create new Calabro plants that have superior plant habit, exceptional resistance and higher performance and attractive foliage coloration.</p> <p>The new Calabro plant originated from a cross pollination made by the inventor in April, 2003, in Lake Forest, IL of Calabro, hortulanum "White Wing", not patented, to the female, and gene with Calabro, hortulanum "Amor", not patented, to the male, or pollen parent. The new Calabro plant was discovered and selected by the inventor as a single plant within the progeny of the initial cross-pollination in a controlled outdoor nursery environment in Lake Forest, IL, on Aug. 15, 2004.</p> <p>Annual reproduction of the new Calabro plant by either division or vegetative cuttings is hereby contemplated. Also, FIG. 1b, in view Aug. 15, 2005 has shown that the unique features of the new Calabro plant are asexually reproduced from type to successive generations of asexual reproduction.</p> <p style="text-align: center;">SUMMARY OF THE INVENTION</p> <p>Plants of the new Calabro have not been observed under all possible environmental conditions. The phenotype may vary according to its vegetation in an outdoor such as sun position and light intensity, without, however, any vegetative change.</p> <p>The following traits have been repeatedly observed and are deemed to be the unique characteristics of "White Dynasty". These characteristics in combination distinguish "White Dynasty" as a new and distinct Calabro plant:</p>	<p>(16) Patent No.: US PP22,240 P2</p> <p>(17) Date of Patent: Nov. 8, 2011</p> <p>(52) U.S. Cl.: 237/275</p> <p>(53) Field of Classification Search: 237/275 See application file for complete search history.</p> <p>Primary Examiner: Susan McCreesh Dwyer (74) Attorney, Agent or Firm: C. A. Shook</p> <p style="text-align: center;">ABSTRACT</p> <p>A new and distinct culture of Calabro plant named "White Dynasty", characterized by its upright and branching plant habit, intermediate to tall plant size, white period plant habit with or without deepening inflorescence, vigorous and dense growth habit, but growth rate, and large-type leaves that are white on general green with fine, reddish and purple-colored veins, dark green to red margins and purple of general coloration.</p> <p style="text-align: center;">4 Distinguishing Traits</p> <p style="text-align: center;">2</p> <p>1. Upright and branching plant habit, intermediate to tall plant size.</p> <p>2. Medium sized plant habit with or without branching habit.</p> <p>3. Vigorous and dense growth habit.</p> <p>4. Fast growth rate.</p> <p>5. Leaves are green that are white and purple green with fine, reddish and purple colored veins, dark green and used margin and purple green colored venation.</p> <p>Plants of the new Calabro differ primarily from plants of the female parent, "White Wing", in the following characteristics:</p> <p>1. Shape of leaves: Calabro grow faster than plants of "White Wing".</p> <p>2. Plant of the new Calabro has broader leaves than plants of "White Wing".</p> <p>3. Shape of the new Calabro and "White Wing" differ in leaf coloration: plants of "White Wing" have white and green colored leaves with marked green colored variegation and pink to white colored venation.</p> <p>Plants of the new Calabro differ primarily from plants of the male parent, "Amor", in the following characteristics:</p> <p>1. Plants of the new Calabro are taller and have more upright than plants of "Amor".</p> <p>2. Plants of the new Calabro have broader leaves than plants of "Amor".</p> <p>3. Plants of the new Calabro and "Amor" differ in leaf coloration in plants of "Amor" have white and green colored leaves with white colored venation.</p> <p>Plants of the new Calabro can be compared to plants of "Jackie Walker", not patented, in the following comparisons contained in table FIG. 1c. Plants of the new Calabro differed primarily from plants of "Jackie Walker" in the following characteristics:</p> <p>1. Plants of the new Calabro grow faster than plants of "Jackie Walker".</p> <p>2. Plants of the new Calabro were taller and more upright than plants of "Jackie Walker".</p> <p>3. Plants of the new Calabro and "Jackie Walker" differed in coloration in plants of "Jackie Walker" had white</p>
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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



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Plant Variety Protection

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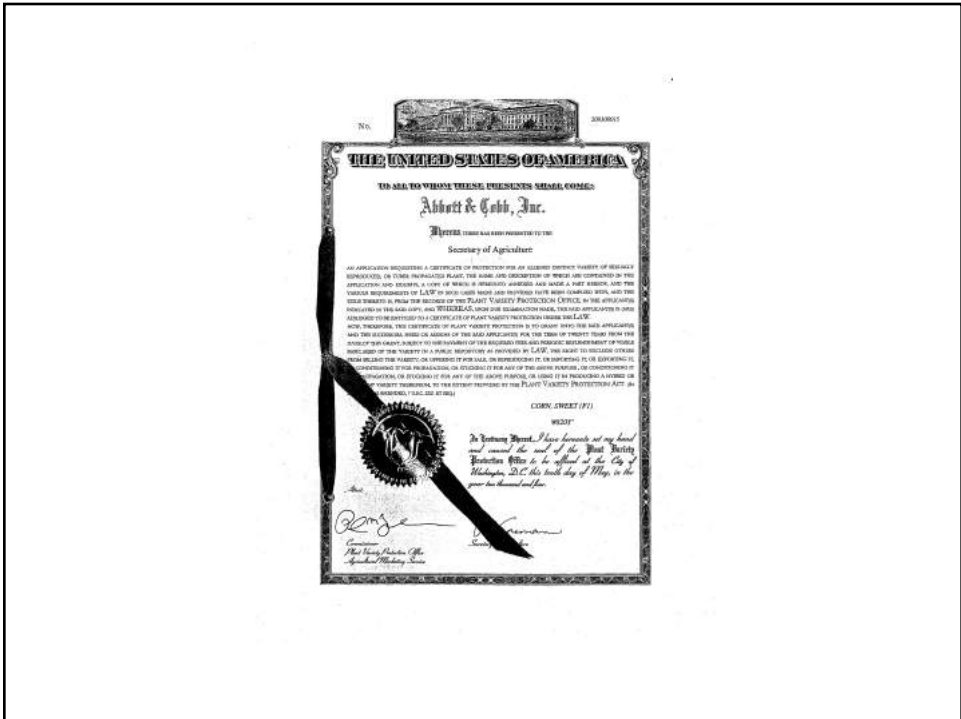
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Plant variety protection - basics

- 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



REPRODUCE LOCALLY. Include form number and date on all reproductions.

APPLICATION FOR PLANT VARIETY PROTECTION CERTIFICATE

1. NAME OF OWNER				2. DOMESTIC OFFICE OR OFFICE		3. MARKET VALUE	
Abbott & Cobb, Inc.				No. 112		\$200	
4. ADDRESS				5. TELEPHONE NUMBER		6. FILING NUMBER	
4151 Street Road P. O. Box 307 Parsippany, NJ 07054-0307				215-245-4666		200100015	
7. A. FILING NUMBER				8. DATE OF RECEIPTS			
1011212000				1/1/76			
9. NAME AND ADDRESS OF CORNER REPRESENTATIVE TO BE NAMED IN THE APPLICATION				10. FILING AND EXAMINATION FEES		11. CHECKED CLASSIFICATION	
a) Dr. Bryan Long, Abbott & Cobb, Inc. 13460 Portlane Circle, West Palm Beach, FL 33414				b) Kenneth Thurn, Esq., 111 So. LaSalle Street 28th Floor Chicago, IL 60603		Filing fee \$ 2,705.00 Exam fee 1010/20 Classification fee 432.00 Date 4/14/84	
12. TELEPHONE NUMBER		13. FAX NUMBER		14. E-MAIL		15. CHECKED COUNTRY	
a) 302-793-0421 b) 312-443-0487		a) 312-443-0331 b) 312-443-0336		a) bryanlong@aol.com b) kthurn@attol.com		USA	
16. CHECKED COMPROMISE FEE FOR SUBCOMMITMENT				17. DOES THE APPLICANT HAVE ANY OTHER RIGHTS IN THIS VARIETY?			
<input type="checkbox"/> None <input checked="" type="checkbox"/> Small <input type="checkbox"/> Large				<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
18. DOES THE APPLICANT HAVE ANY OTHER RIGHTS IN THIS VARIETY?				19. DOES THE APPLICANT HAVE ANY OTHER RIGHTS IN THIS VARIETY?			
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
20. DOES THE APPLICANT HAVE ANY OTHER RIGHTS IN THIS VARIETY?				21. DOES THE APPLICANT HAVE ANY OTHER RIGHTS IN THIS VARIETY?			
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			

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

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?

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➔ (D) neither a plant patent nor a PVPA certificate



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Mask Work Protection

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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: M4100019263 / 2011-06-14
Title: Mask work as contained A0C12D509A.
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: A0C12D509A
Name: National Semiconductor Corporation



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Vessel Hull Protection

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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, check the Copyright Office website at www.copyright.gov, write the Copyright Office, or call (202) 707-0996.

Form D-VH
Designs (Visual Arts)
Copyright Office

DATE OF SUBSTITUTION/PUBLICATION
 2 13 2012

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

Please give the name 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?
 (b) Provide a brief general statement writing forth the salient features of the design.
 (c) If this design is derived from an earlier design, describe how that design has been revised, adapted, or changed.

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 and conceived in the regular course of employment of the designer(s) and (2) the employer had authorized the design in advance or is responsible to create.

OWNER, IF NOT DESIGNER(S)
 If the owner is different from the designer(s) or employer named above, provide the name and address of the owner.

PRIORITY CLAIM
 (a) Was an application for registration of this design identified in an application filed in a foreign country that extends to designs of vessels within the United States, or in persons filing applications in the United States, under provisions similar to those afforded in 17 USC, chapter 13? Yes No
 (b) If yes, identify the country and date of application. Country: _____ Date of application: _____

DATE MADE PUBLIC
 Was this design made public before the date of application? Yes No
 If yes, on what date? _____

MORE ON BACK

EXAMINED BY _____ **FORM D-VH**

ORDERED BY _____ **FOR**

CORRESPONDENCE Yes No **OFFICE USE ONLY**

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

Please provide the name and address of the person to whom correspondence regarding the application may be directed.

CONTACT PERSON
 Name: _____
 Address: _____
 E-mail address: _____
 FAX number: _____
 Telephone phone (): _____

Give the name and account number of the depository institution to be charged to a deposit account established in the Copyright Office.

DEPOSIT ACCOUNT
 Name of Account: _____
 Account number: _____

DECLARATION AND SWORN STATEMENTS
 The undersigned, as the applicant or the applicant's duly appointed agent or representative, being hereby warned that willful false statements are punishable by fine or imprisonment, or both, under 18 USC 1001, and that such willful false statements may constitute the violation of this application or any resulting registration, hereby declares to the best of his or her knowledge and belief:
 (1) that the design has been fixed in a useful article;
 (2) that the design is original and was created by the designer(s), or employee if applicable, named in the application;
 (3) that those aspects of the design for which registration is sought are not governed by a design patent;
 (4) that the design has not previously been registered on behalf of the applicant or applicant's predecessor in title; and
 (5) that the applicant is the person entitled to protection and to registration under chapter 13 of title 17, United States Code.

Complete if applicable:
 The design has been made public with a design notice as prescribed by 17 USC 1306.
 Following is the exact form of the design notice:

 Where was the useful article in the design notice located?

If the undersigned is not the declarant, he or she is properly authorized to execute this application on behalf of the applicant.

 Title: _____
 Address: _____
 Telephone: _____
 E-mail address: _____

Copyright Office fees are subject to change. For current fees, check the Copyright Office website at www.copyright.gov, write the Copyright Office, or call (202) 707-0996.

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