



Invention & Industry

Sui Generis Rights

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Konomark
Most rights sharable

Sui Generis Rights – Initial Observations (1/2)

- The default under the law is that you can copy others' ideas, innovations, expression, etc.
- This can be understood to be a basic principle of a free society, including ...
 - our free market economy, encouraging the entry of competitors to reduce prices and increase value to consumers
 - notions of freedom of expression (e.g., the “marketplace of ideas” concept for democracy — that good ideas catch on and drive out the bad ideas)

Sui Generis Rights – Initial Observations (2/2)

- Nevertheless, individuals and firms recurrently complain that being copied is unfair or harmful.
- Sometimes courts stretch existing regimes to new subject matter — without precedent or even arguably at odds with doctrine/precedent, e.g.:
 - copyright for computer programs (code) as a literary work
 - utility patents for cell lines not reproducible from the specification alone; with “written description” deemed fulfilled by making samples available
- But when courts reject subject matter from established rights regimes, would-be plaintiff sometimes find success in Congress.

Some Sui Generis Rights Created by Congress

- Plant Patents
- Plant Variety Protection
- Mask Work Protection
- Vessel Hull Protection

Plant Patents

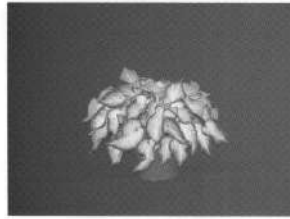
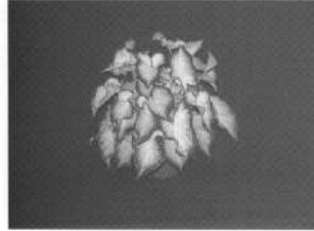
- Covers asexually reproduced plants
- Like utility and design patents, they're issued by the USPTO after an application process
- Must be new and clearly distinguishable from other varieties (e.g., color, taste, disease resistance)
- Can be invented or discovered if discovered in a cultivated area
- Source of law: Plant Patent Act (1930), 35 U.S.C. § § 161-164
- Duration: 20 year term of protection from filing of application



US00PP22240P2

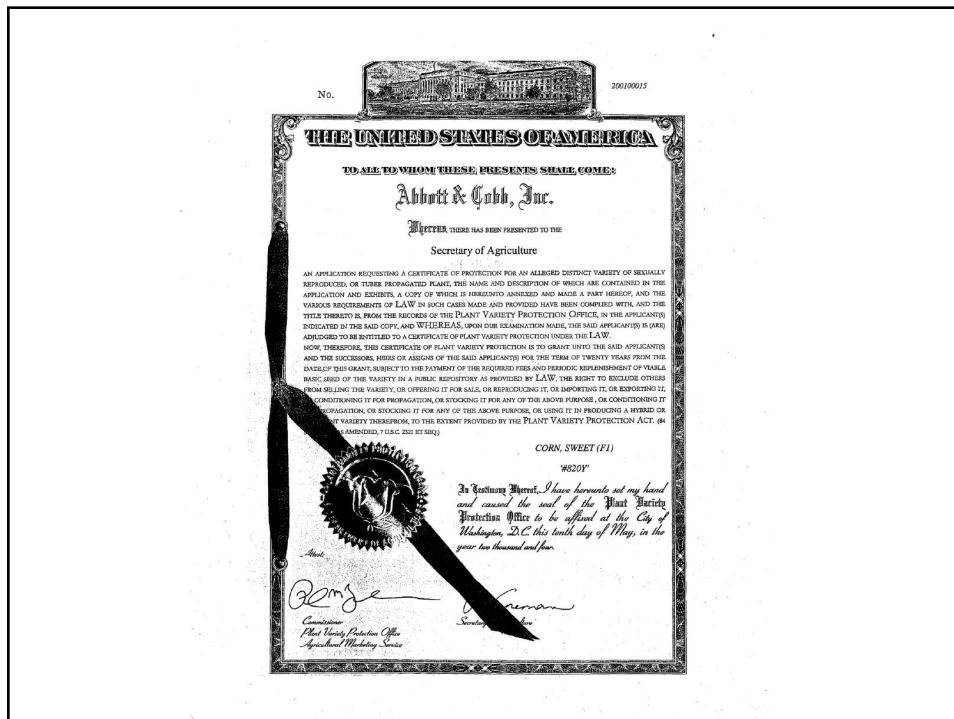
<p>(12) United States Plant Patent Hartman</p> <hr/> <p>(54) CALADIUM PLANT NAMED 'WHITE DYNASTY'</p> <p>(50) Latin Name: <i>Caladiumhortulanum</i> Varietal Denomination: White Dynasty</p> <p>(76) Inventor: Robert Dale Hartman, Lake Placid, FL (US)</p> <p>(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 0 days.</p> <p>(21) Appl. No.: 12/802,579</p> <p>(22) Filed: Jun. 9, 2010</p> <p>(51) Int. Cl. A01H 5/00 (2006.01)</p>	<p>(10) Patent No.: US PP22,240 P2</p> <p>(45) Date of Patent: Nov. 8, 2011</p> <hr/> <p>(52) U.S. Cl. Plt./373</p> <p>(58) Field of Classification Search Plt./373 See application file for complete search history.</p> <p><i>Primary Examiner</i> — Susan McCormick Ewoldt (74) <i>Attorney, Agent, or Firm</i> — C. A. Whealy</p> <p>(57) ABSTRACT</p> <p>A new and distinct cultivar of <i>Caladium</i> plant named 'White Dynasty', characterized by its upright and mounding plant habit; intermediate to tall plant size; uniform potted plant habit with or without de-eyeing tubers; vigorous and dense growth habit; fast growth rate; and lance-type leaves that are white and greyed green with few random red purple-colored spots, dark green-colored margins and greyed green-colored venation.</p> <p style="text-align: center;">4 Drawing Sheets</p>
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<p>1</p> <p>Botanical designation: <i>Caladiumhortulanum</i>. Cultivar denomination: 'WHITE DYNASTY'.</p> <p style="text-align: center;">BACKGROUND OF THE INVENTION</p> <p>The present invention relates to a new and distinct cultivar</p>	<p>2</p> <p>1. Upright and mounding plant habit; intermediate to tall plant size.</p> <p>2. Uniform potted plant habit with or without de-eyeing tubers.</p> <p>3. Vigorous and dense growth habit.</p>
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Plant Variety Protection Certificates

- 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



No.

200100015



THE UNITED STATES OF AMERICA

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Abbott & Cobb, Inc.

Whereas, THERE HAS BEEN PRESENTED TO THE

Secretary of Agriculture

AN APPLICATION REQUESTING A CERTIFICATE OF PROTECTION FOR AN ALLEGED DISTINCT VARIETY OF SEXUALLY REPRODUCED, OR TUBER PROPAGATED 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 TWENTY YEARS FROM THE

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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 TWENTY 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 CONDITIONING IT FOR PROPAGATION, OR STOCKING IT FOR ANY OF THE ABOVE PURPOSE, OR CONDITIONING IT FOR PROPAGATION, OR STOCKING IT FOR ANY OF THE ABOVE PURPOSE, OR USING IT IN PRODUCING A HYBRID OR PLANT VARIETY THEREFROM, TO THE EXTENT PROVIDED BY THE PLANT VARIETY PROTECTION ACT. (84 STAT. 1541, AS AMENDED, 7 U.S.C. 2321 ET SEQ.)

CORN, SWEET (F1)

'#820Y'

In Testimony Whereof, I have herunto set my hand and caused the seal of the Plant Variety Protection Office to be affixed at the City of Washington, D.C. this tenth day of May, in the year two thousand and four.

Attest:

Commissioner
Plant Variety Protection Office
Agricultural Marketing Service

Secretary



Form Approved - OMB No. 0581-005

REPRODUCE LOCALLY. Include form number and date on all reproductions

U.S. DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE
SCIENCE AND TECHNOLOGY - PLANT VARIETY PROTECTION OFFICE

APPLICATION FOR PLANT VARIETY PROTECTION CERTIFICATE
(Instructions and information collection burden statement on reverse)

The following statements are made in accordance with the Privacy Act of 1974 (5 U.S.C. 552a) and the Paperwork Reduction Act (PRA) of 1995.
Application is required in order to determine if a plant variety protection certificate is to be issued (7 U.S.C. 2421). Information is held confidential until certificate is issued (7 U.S.C. 2426).

1. NAME OF OWNER Abbott & Cobb, Inc.		2. TEMPORARY DESIGNATION OR EXPERIMENTAL NAME ACX 812	3. VARIETY NAME ACE #820Y
4. ADDRESS (Street and No., or P.F.O. No., City, State, and ZIP Code, and Country) 4151 Street Road P. O. Box 307 Feasterville, PA 19053-0307		5. TELEPHONE (include area code) 215-245-6666	FOR OFFICIAL USE ONLY PVPO NUMBER 200100015
7. IF THE OWNER NAMED IS NOT A "PERSON", GIVE FORM OF ORGANIZATION (corporation, partnership, association, etc.) Corporation		6. FAX (include area code) 215-245-1068	FILING DATE 10/12/2000
8. IF INCORPORATED, GIVE STATE OF INCORPORATION PA	9. DATE OF INCORPORATION 1/1/74		FILING AND EXAMINATION FEES: \$ 2,705.00 DATE 10/10/00 CERTIFICATION FEE: \$ 432.00 DATE 4/14/04
10. NAME AND ADDRESS OF OWNER REPRESENTATIVE(S) TO SERVE IN THIS APPLICATION. (First person listed will receive all papers)			
a) Dr. Bryant Long Abbott & Cobb, Inc. 11460 Fortune Circle West Palm Beach, FL 33414		b) Keith Parr, Esq. Lord, Bissell & Brook 115 So. LaSalle Street 28th Floor Chicago, IL 60603	
11. TELEPHONE (include area code) a) 561-795-0121 b) 312-443-0497	12. FAX (include area code) a) 561-795-0251 b) 312-443-0336	13. E-MAIL a) bryantlong@aol.com b) kparr@lordbissell.com	14. CROP KIND (Common Name) sweet COIN
18. CHECK APPROPRIATE BOX FOR EACH ATTACHMENT SUBMITTED (Follow instructions on reverse)		19. DOES THE OWNER SPECIFY THAT SEED OF THIS VARIETY BE SOLD AS A CLASS OF CERTIFIED SEED? See Section 83(a) of the Plant Variety Protection Act.	
<input checked="" type="checkbox"/> Exhibit A. Origin and Breeding History of the Variety <input checked="" type="checkbox"/> Exhibit B. Statement of Distinctness <input checked="" type="checkbox"/> Exhibit C. Objective Description of Variety <input type="checkbox"/> Exhibit D. Additional Description of the Variety (Optional)		<input type="checkbox"/> YES (If "yes," answer items 20 and 21 below) <input checked="" type="checkbox"/> NO (If "no," go to item 22)	
		20. DOES THE OWNER SPECIFY THAT SEED OF THIS VARIETY BE LIMITED AS TO NUMBER OF CLASSES? <input type="checkbox"/> YES <input type="checkbox"/> NO	
		IF YES, WHICH CLASSES? <input type="checkbox"/> FOUNDATION <input type="checkbox"/> REGISTERED <input type="checkbox"/> CERTIFIED	

DATE **11/1/01**

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				20. DOES THE OWNER SPECIFY THAT SEED OF THIS VARIETY BE LIMITED AS TO NUMBER OF CLASSES? <input type="checkbox"/> YES <input type="checkbox"/> NO			
				IF YES, WHICH CLASSES? <input type="checkbox"/> FOUNDATION <input type="checkbox"/> REGISTERED <input type="checkbox"/> CERTIFIED			
				21. DOES THE OWNER SPECIFY THAT THE CLASSES BE LIMITED AS TO NUMBER OF GENERATIONS? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO			
				IF YES, SPECIFY THE NUMBER 1, 2, 3, etc: <input type="checkbox"/> FOUNDATION <input type="checkbox"/> REGISTERED <input type="checkbox"/> CERTIFIED			
				(If additional explanation is necessary, please use the space indicated on the reverse.)			
22. HAS THE VARIETY (INCLUDING ANY HARVESTED MATERIAL) OR A HYBRID PRODUCED FROM THIS VARIETY BEEN SOLD, DISPOSED OF, TRANSFERRED, OR USED IN THE U. S. OR OTHER COUNTRIES? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO				23. IS THE VARIETY OR ANY COMPONENT OF THE VARIETY PROTECTED BY INTELLECTUAL PROPERTY RIGHT (PLANT BREEDER'S RIGHT OR PATENT)? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO			
IF YES, YOU MUST PROVIDE THE DATE OF FIRST SALE, DISPOSITION, TRANSFER, OR USE FOR EACH COUNTRY AND THE CIRCUMSTANCES. (Please use space indicated on reverse.)				IF YES, GIVE COUNTRY, DATE OF FILING OR ISSUANCE AND ASSIGNED REFERENCE NUMBER. (Please use space indicated on reverse.) 9600094 '781 ultra'			
24. The owners declare that a viable sample of basic seed of the variety will be furnished with application and will be replenished upon request in accordance with such regulations as may be applicable, or for a tuber propagated variety a tissue culture will be deposited in a public repository and maintained for the duration of the certificate. The undersigned owner(s) believe(s) the owner of this sexually reproduced or tuber propagated plant variety, and believe(s) that the variety is new, distinct, uniform, and stable as required in Section 42, and is entitled to protection under the provisions of Section 42 of the Plant Variety Protection Act. Owner(s) is/are informed that false representation herein can jeopardize protection and result in penalties.							
SIGNATURE OF OWNER <i>Arthur C. Abbott Pres/CEO</i>				SIGNATURE OF OWNER			
NAME (Please print or type) Abbott & Cobb, Inc.				NAME (Please print or type)			
CAPACITY OR TITLE Chief Executive Officer		DATE 10/30/00		CAPACITY OR TITLE		DATE	

1

ST-470 (2-98) designed by the Plant Variety Protection Office with WordPerfect 6.0a. Replaces STD-470 (6-98) which is obsolete. (See reverse for instructions and information collection burden statement)

Mask Work Protection

- Protects original mask works for making semiconductor 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
- Registration/administration through Library of Congress Copyright Office
- Unlike copyright, a mask work must be registered before protection begins.

Type of Work: Mask Work

Registration Number / Date: MW0000019263 / 2011-06-14

Title: Mask work as contained ADC12D500A.

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: ADC12D500A

Names: National Semiconductor Corporation

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Vessel Hull Design Protection

- Protects vessel hulls (i.e., of boats and ships), plus superstructure, per later amendment
- It's a legislative response to the fact that after a fiberglass hull is made from a mold, the hull can be used to produce a new mold, allowing manufacture of copies.

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- It's a legislative response to the fact that after a fiberglass hull is made from a mold, the hull can be used to produce a new mold, allowing manufacture of copies.
- Source of law: Vessel Hull Design Protection Act (1998), 17 U.S.C. § § 1301-1332
- Duration: 10 years
- Must be registered with the Copyright Office for protection to commence.
- An application for registration must be filed no later than two years after the hull was exhibited or offered for sale to the public.

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right Office, or call (202) 707-3000.

Form D-VH
For Vessel Hull Design
UNITED STATES COPYRIGHT OFFICE

REGISTRATION NUMBER
DVH 0396

DATE OF REGISTRATION/PUBLICATION
10 08 08
Month Day Year

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

Please give the make and model of the vessel that embodies the design.
Scout 191 Bay Scout

1 TITLE

What is the type or style of the design for which registration is sought?
Bay Boat

2 (a) DESIGN

Provide a brief general statement setting forth the salient features of the design.
Hull form, deck configuration, and overall appearance.

Check here if this is a single design.
 Check here if registering more than one design. Use Form D-VH/CON for additional designs.

The reverse shoebox hull to deck joint construction method.

If this design is derived from an earlier design, describe how that design has been revised, adapted, or rearranged.

3 DESIGNERS

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 individual authorship of the design is difficult or impossible to ascribe.
 Please check here if those conditions are satisfied and you are providing the employer's name.

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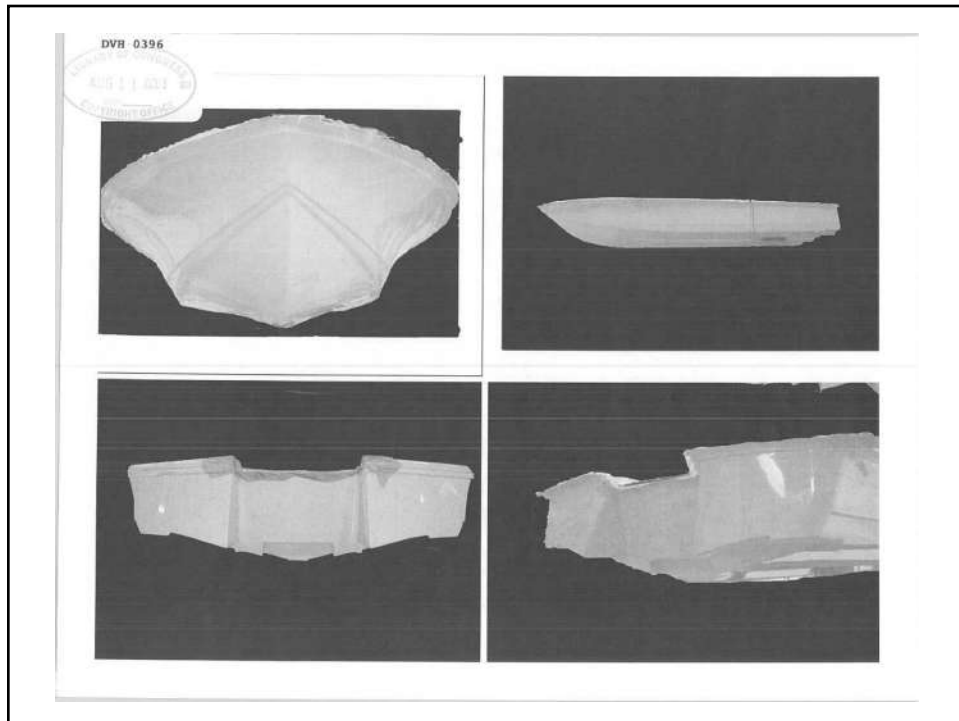
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Which of the following doctrines of intellectual property is not generally recognized in the United States?

- (A) database rights
- (B) vessel hull design rights
- (C) design patents
- (D) plant variety protection certificates
- (E) rights of publicity

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