

- Lea-Cox, J.D. and D.R. Ross.** 2001. Clean water policy and the rationale for developing a water and nutrient management process for container nursery and greenhouse operations. *J. Environ. Hort.* 19(4):230-236.
- Lea-Cox, J.D., D.R. Ross, and K.M. Tefteau.** 2001. A water and nutrient management process for container nursery and greenhouse production systems. *J. Environ. Hort.* 19(4):226-229.
- Maryland Dept. of Agriculture.** 2000. Office of resource conservation. Annapolis MD. <<http://www.mda.state.md.us/geninfo/gen5.htm>>
- Ross, D.R., J.D. Lea-Cox, and K.M. Tefteau.** 2001. The importance of water in the nutrient management process. *Proc. Southern Nurserymen's Assoc. Res. Conf.* 46:574-577.
- Yeager, T., C. Gilliam, T. Bilderback, D. Fare, A. Niemiera, and K. Tilt.** 1997. Best management practices guide for producing container-grown plants. Southern Nursery Assoc. Atlanta.

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## The Art and Science of Plant Introduction®

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The Southern Plant Conference last week in Athens opened a Pandora's Box of questions and concerns. The plant world is changing from one of universal sharing to a more protectionist mode. The USPTO (U.S. Patent and Trademark Office) is becoming more stringent about the prior handling and exposure of plants. In the minutes available today, I plan to share accumulated information based on phone calls, literature, and the internet.

A selected palette of woody plants with commercial potential are:

- *Hydrangea quercifolia* 'Amethyst', 'Vaughn's Lillie'
- *Hydrangea macrophylla* reblooming selections: 'Penny-Mac', 'David Ramsey', 'Decatur Blue', 'Oak Hill', and 'Endless Summer' (will be patented); preliminary DNA "finger printing" indicates the above five are very similar.
- *Ceanothus americanus*
- *Ceanothus delileanus* 'Gloire de Versailles', 'Henri Desfossé'
- *Ceanothus pallidus* 'Roseus', 'Marie Simon'
- *Spiraea japonica* 'Snowball', 'White Gold'
- *Cercis chinensis* 'Don Egolf' (fruitless)
- ×*Cupressocyparis leylandii* 'Gold Rider'; has yellow foliage in heat of Georgia's summers.
- *Thuja plicata* 'Canadian Gold'; has yellow foliage in heat of Georgia's summers.
- *Deutzia gracilis* 'Elaine's Gold'—cream-yellow leaf margin.
- *Indigofera decora* (syn. *I. incarnata*) 'Rosea'
- *Agarista populifolia* (syn. *Leucothoe populifolia*) dwarf form (Leprechaun™)
- *Osmanthus ×fortunei* 'Fruitlandii'
- *Pieris phillyreifolia* has possibilities
- *Prunus incisa* – Fuji Cherry; one of the best small cherries; parent of 'Okame'. Two new cultivars are 'Fair Elaine' (pink) and 'Snowcloud' (white)

- *Sarcococca ruscifolia* var. *chinensis* 'Dragon's Gate'
- *Euonymus fortunei* 'Wolong Ghost'
- *Loropetalum chinense* 'Snow Muffin'
- *Loropetalum chinense* f. *rubrum* 'Little Red'

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## Why, When, and How to Patent a New Plant Variety®

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### INTRODUCTION

The United States now leads the world in the issuance of certificates of plant protection. Moreover, the U.S.A. was the first country to offer statutory protection to plant breeders, and it can reasonably be argued that that foresight has allowed the U.S.A. nursery industry to become world class in little more than three generations. Declaring the interest that PlantHaven exists to service plant breeders, this paper seeks to explain and encourage the process of plant patent application within a framework of "best practice".

### WHY PATENT

**Patents Benefit the Industry.** When Thomas Edison and Henry Ford and others finally persuaded a skeptical Congress to enact in 1930 the Plant Patent Act, their primary purposes were, first, to extend to agriculture and horticulture the incentive of offering reward to the industry's innovators, and, second, to provide the consumer with ever better products thereby further enhancing the industry's reputation. True, the plant breeder would be a major beneficiary also, but the value of patents to U.S.A. commerce and industry and consumers in general had been well understood since the founding of the U.S.A. Patent Office over 200 years ago.

**Plant Patents Provide the Sole Means of Controlling Propagation.** A granted patent allows the patentee or his heirs or assignees to control the manufacture and sale of the patented item. In our context, manufacture equates to propagation, which must be asexual in order to guarantee that the "invention" (the new variety) is being manufactured exactly true to type and definition. A patent owner is entitled to injunctive and compensatory relief for unauthorized propagation, although sadly the onus is on the breeder or owner to establish that an alleged infringement did take the form of multiplication of plants which had been directly descended from the breeder's original.

**Patents Provide the Opportunity for Strategic Licensing.** Exactly as in other manufacturing industries, the breeder (inventor) will seek to derive the maximum benefit from the new variety. If the breeder is a commercial grower, (or if the breeder's employer so intends) then he or she may deem that the greater benefit derives not from royalties from others but from all the consequences of being the sole producer — the additional production opportunity, the opportunity to enhance reputation or brand. Alternatively, the breeder may determine that it is preferable to set up a healthy royalty stream from a carefully constructed licensing strategy.