

# **WHY SHOULD INTELLECTUAL PROPERTY BE PROTECTED IN SOUTH AFRICA?**

**JANINE HOLLESEN**



**WERKSMANS**  
INCORPORATING  
JAN S. DE VILLIERS

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# **INTELLECTUAL PROPERTY**

**PATENTS**

**DESIGNS**

**COPYRIGHT**

**KNOW HOW**

**TRADE MARKS**

**PLANT BREEDERS RIGHTS**



# **PATENTS**

**REGISTERED RIGHT**

**TERRITORIAL**

**REQUIREMENTS -**

- **TECHNOLOGICAL ADVANCEMENT**
- **CAPABLE OF INDUSTRIAL APPLICATION IN COMMERCE, INDUSTRY OR AGRICULTURE**
- **NEW**
- **NOT OBVIOUS**

**"NEW" = DOES NOT EXIST ALREADY / NOT DISCLOSED TO THE PUBLIC**

**NOT GRANTED IN RESPECT OF PLANTS**

**MONOPOLY : 20 YEARS**



# EXAMPLE

## SHELTER FOR FRUIT TREES

(12) DEMANDE INTERNATIONALE PUBLIÉE EN VERTU DU TRAITÉ DE COOPÉRATION EN MATIÈRE DE BREVETS (PCT)

(19) Organisation Mondiale de la Propriété Intellectuelle  
Bureau International

(43) Date de la publication internationale  
12 septembre 2003 (12.09.2003)

(10) Numéro de publication internationale  
WO 03/073835 A1

(51) Classification internationale des brevets : A01G 13/02, 9/14 (72) Inventeur et (75) Inventeur/Déposant pour l'US seulement : SCHMITT, Bruno [FR/FR]; 22, rue de la Marine, BP 20025, F-66703 Argelès-sur-Mer cedex (FR).

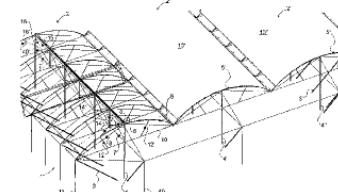
(21) Numéro de la demande internationale : PCT/FR03/00718 (74) Mandataire : RAVINA, Bernard, Ravina SA, 8, rue des Brigadiers, 7.A, de Font Grasso, F-31703 Blagnac cedex (FR).

(22) Date de dépôt internationale : 6 mars 2003 (06.03.2003) (81) États désignés (nonovo) : AE, AG, AL, AM, AU, AU, AZ, BA, BB, BG, BR, BY, BZ, CA, CH, CN, CO, CR, CU, CZ, DE, DK, DM, DZ, EC, EE, ES, FI, GB, GD, GE, GH, GM, HR, HU, ID, IL, IN, IS, JP, KE, KG, KP, KR, KZ, LC, LK, LR, LS, LU, LV, MA, MD, MG, MK, MN, MW, MX, MY, NZ, NI, NO, NZ, OM, PH, PL, PT, RO, RU, SC, SD, SG, SK, SL, SZ, TM, TN, TR, TT, TZ, UA, UG, US, UZ, VC, VN, YU, ZA, ZM, ZW.

(25) Langue de dépôt : français (84) États désignés (régionaux) : brevet ARIPO (GH, GM, KI, LS, MW, MZ, SD, SL, SZ, TZ, UG, ZM, ZW), brevets S.C. (FR/FR); 22, rue de la Marine, BP 20025, F-66703 Argelès-sur-Mer cedex (FR).

(30) Données relatives à la priorité : 02032848 6 mars 2002 (06.03.2002) FR (54) Titre : SHELTER FOR FRUIT TREES COMPRISING A BUTTETD GREENHOUSE UNITS RIGIDIFIED WITH RIGGING AND EQUIPPED WITH MEANS FOR TENSIONED UNFOLDING OR FOLDABLE ROOFS

(54) Titre : ABRI POUR ARBRES FRUITIERS COMPORTANT DES CLAPELLES ABOUTÉES RIGIDIFIÉES PAR CÂBLAGE ET ÉQUIPÉES DE MOYENS DE DÉPLOIEMENT SOUS TENSION DE COUVERTURES REPLIABLES



(57) Abstract: The invention concerns a horticultural shelter comprising a framework (1) delimiting a plurality of successively adjacent greenhouse units (2, 2'), the arches (5) of the masses delimiting a common greenhouse unit (2) being attached to the corresponding arches (5') of a neighbouring greenhouse unit (2') and being supported at the top by a post (4, 6), the framework (1) constituting a support for a flexible and retractable roof (13, 13'). The framework (1) is maintained rigid by triangulated structures to maintain in configuration the arches (5, 5') and for longitudinally rigidifying the greenhouse units, which comprise rigid elements (12, 12', 6) supported by a transverse base element (10) and a rigging (10, 9, 7, 15, 16, 16') linking together said rigid elements. Each greenhouse unit comprises a roof equipped with individual power means for tensioned unfolding and possible folding.

[Suite sur la page suivante]



# DESIGNS

**REGISTERED RIGHT**

**TERRITORIAL**

**TWO TYPES:**

- **AESTHETIC : EVALUATED ON APPEARANCE**
- **FUNCTIONAL : DICTATED BY ITS FUNCTION**

**NEW AND ORIGINAL (AESTHETIC DESIGNS) OR NOT OBVIOUS (FUNCTIONAL DESIGNS)**

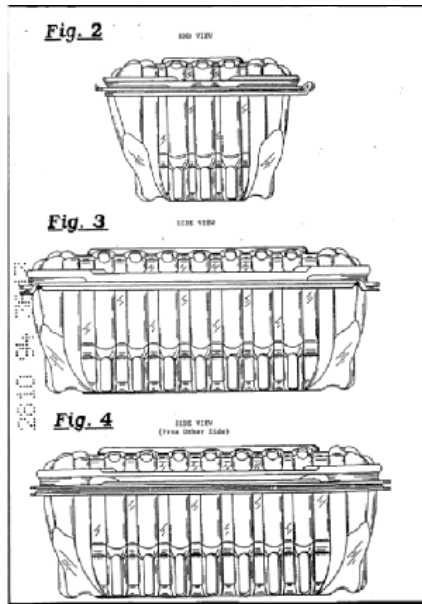
**CAPABLE OF BEING REPRODUCED IN AN INDUSTRIAL PROCESS**

**MONOPOLY : 10 YEARS (FUNCTIONAL DESIGNS)  
15 YEARS (AESTHETIC DESIGNS)**



# EXAMPLES

## ELONGATED FRUIT BOX



## FRUIT PICKING APPARATUS



# **COPYRIGHT**

**AUTOMATIC – COPYRIGHT ACT**

**NOT TERRITORIAL**

**WORKS IN TERMS OF THE COPYRIGHT ACT, LITERARY,  
ARTISTIC, COMPUTER SOFTWARE**

**GENERAL REQUIREMENTS – ORIGINAL, MATERIAL FORM**

**OWNER – USUALLY CREATOR UNLESS TRANSFERRED**

**TRANSFERRED IN WRITING**



# **KNOW HOW / CONFIDENTIAL INFORMATION**

**CONFIDENTIAL INFORMATION**

**EXCLUDES INFORMATION IN PUBLIC DOMAIN**

**PROTECTED – NON DISCLOSURE / CONFIDENTIALITY  
AGREEMENTS**

**DISCLOSURE UNLAWFUL**



# **TRADE MARKS**

**COMMON LAW / REGISTERED RIGHT**

**TERRITORIAL**

**TO DISTINGUISH YOUR BUSINESS AND PRODUCTS FROM ANOTHER**

**REGISTRABILITY SEARCH**

**FILING**



# **45 CLASSES**

**CLASS 29 (PRESERVED AND DRIED FRUIT)**

**CLASS 31 (PLANTS, FLOWERS, FRESH FRUIT)**

**CLASS 32 (FRUIT JUICE)**

**CLASS 33 (ALCOHOLIC BEVERAGES INCLUDING WINE)**

**CLASS 35 (MARKETING, EXPORT SERVICES)**

**CLASS 39 (TRANSPORT AND PACKAGING SERVICES)**

**CLASS 42 (SCIENTIFIC AND INDUSTRIAL RESEARCH)**

**CLASS 44 (AGRICULTURAL SERVICES)**



# **PLANT BREEDER'S RIGHTS**

- **REGISTERED RIGHT**
- **PLANT BREEDERS' RIGHTS ACT 15 OF 1976**
- **TERRITORIAL**
- **MONOPOLY – 25 YEARS – TREES AND VINES  
20 YEARS – OTHER VARIETIES**



# **REQUIREMENTS**

**NEW**

**DISTINCT**

**UNIFORM**

**STABLE**



# **NEW**

**PROPAGATING MATERIAL OR HARVESTED MATERIAL - NOT SOLD / OTHERWISE DISPOSED OF BY / WITH CONSENT OF BREEDER FOR PURPOSES OF EXPLOITATION OF THE VARIETY – IN SA FOR NOT MORE THAN 1 YEAR; AND**

**IN A CONVENTION COUNTRY, IN THE CASE OF –**

- **VINES AND TREES – NOT MORE THAN 6 YEARS;  
OR**

- **OTHER VARIETIES – NOT MORE THAN 4 YEARS**

**PRIOR TO THE DATE OF FILING OF THE APPLICATION FOR PBR**



# **DISTINCT**

**IF AT THE DATE OF THE APPLICATION**

**CLEARLY DISTINGUISHABLE**

**FROM ANY OTHER VARIETY OF THE SAME KIND  
OF PLANT**

**OF WHICH THE EXISTENCE ON DATE OF  
APPLICATION IS A MATTER OF COMMON  
KNOWLEDGE**



# **NO DEFINITION OF COMMON KNOWLEDGE**

**NO DEFINITION OR INDICATION IN ACT SAVE FOR –**

**APPLICATION IN ANY COUNTRY FOR PBR**

**OR FOR ENTERING IN OFFICIAL REGISTER OF VARIETIES**

**WHICH LEADS TO THE GRANT OF A PBR OR ENTRY IN  
OFFICIAL REGISTER**

**THE EXISTENCE OF THAT VARIETY WILL ALSO BE DEEMED  
TO BE A MATTER OF COMMON KNOWLEDGE**



# **UNIFORM**

**SUFFICIENTLY UNIFORM - THE  
CHARACTERISTICS OF THE VARIETY**

**SUBJECT TO THE VARIATION THAT MAY  
BE EXPECTED FROM THE PARTICULAR  
FEATURES OF PROPAGATION THEREOF**



**STABLE**

**AFTER CYCLES OF PROPAGATION AND  
MULTIPLICATION**

**IF CHARACTERISTICS REMAIN  
UNCHANGED AFTER REPEATED  
PROPAGATION**



# **WHY SHOULD INTELLECTUAL PROPERTY BE PROTECTED IN SOUTH AFRICA?**

**ASSET**

**COMMERCIALISATION**

**ADDITIONAL INCOME STREAMS**

**SALE OF IP**





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