

**CPVO SEMINAR  
ON  
ENFORCEMENT OF PLANT VARIETY RIGHTS**

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# Content

- Introduction
- General aspects Community plant variety rights:
  - Conditions for the grant of Community plant variety rights
  - Effects of Community plant variety rights
- Point of view of trade; Community plant variety rights in practice

# Introduction

- Marc van der Ven
- Employed at Ten Hoopen Jonker Fresco, attorneys at law as legal staff member and IP-attorney
- Ten Hoopen Jonker Fresco, attorneys at law is one of Europe's few law firms practicing in the field of plant variety rights
- Takes care of the registration and enforcement of many breeders' rights in- and outside Europe, among others through (Community) plant variety rights and trade mark rights

# General aspects

Community plant variety rights protection is eligible for varieties of all plant species, which are:

- Distinct
  - Uniform
  - Stable, and
  - New
- 
- Variety denomination

# General aspects

## Community plant variety rights protection:

- Production or reproduction (multiplication)
- Conditioning for the purpose of propagation
- Offering for sale
- Selling or other marketing
- Exporting from the Community
- Importing to the Community
- Stocking for any of the purposes mentioned above

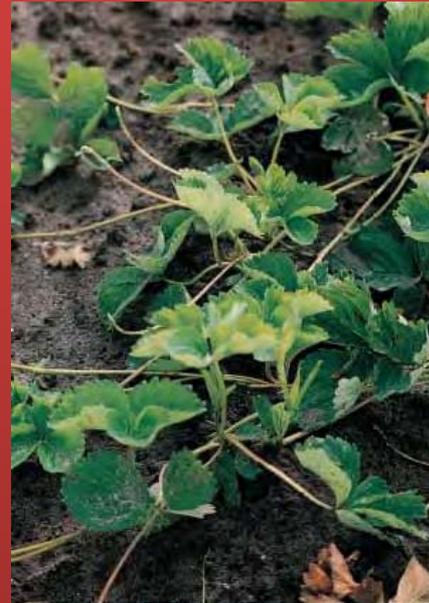
The holder may make his authorization subject to conditions and limitations

# Point of view of trade; CPVR in practice

- Scope of protection:
  - Propagating material
  - Harvested material
    - *obtained through unauthorized use, and*
    - *holder has not had reasonable opportunity to exercise his right*
  - Products obtained directly from material of the protected variety
    - *obtained through unauthorized use, and*
    - *holder has not had reasonable opportunity to exercise his right*
  - Essentially derived varieties
- Limitation:
  - Non-commercial purposes
  - Experimental purposes
  - Breeding, discovering of developing new varieties

# Point of view of trade; CPVR in practice

Propagating material strawberry:



# Point of view of trade; CPVR in practice

## Propagation material apple



# Point of view of trade; CPVR in practice



Elsanta



Sonata

# Point of view of trade; CPVR in practice



'Milwa' JUNAMI®



'Nicoter' KANZI®

# Point of view of trade; CPVR in practice



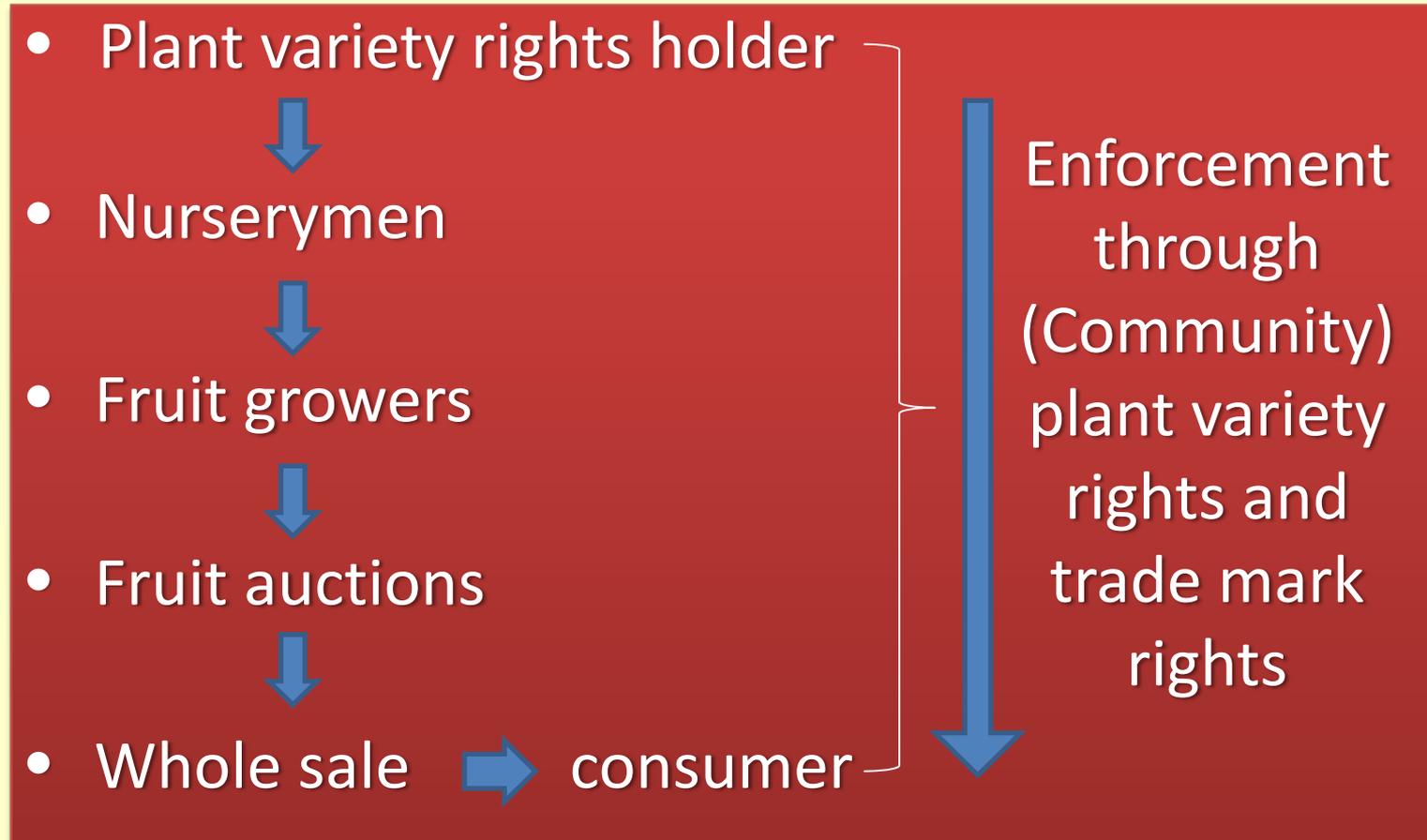
# Point of view of trade; CPVR in practice



# Point of view of trade; CPVR in practice

- 'Milwa' JUNAMI® and 'Nicoter' KANZI® are examples of (new) selected apple varieties which are introduced into the market by means of club managed concepts.
- Club managed concepts imply co-operation on marketing, communication, production support and developing high quality of fruit of sustainable varieties.
- The power of the whole production chain is used for this purpose by means of creating new alliances and contractual based relations between:

# Point of view of trade; CPVR in practice



# Point of view of trade; CPVR in practice

- Club managed concepts result in hardly infringement on (Community) plant variety rights due to:
  - Contractual obligations of each player/level of the production chain
  - Collective interest

# Point of view of trade; CPVR in practice

Thank you for your attention