

CPVO SEMINAR ON ENFORCEMENT OF PLANT VARIETY RIGHTS

HAMBURG, 25 MAY 2011

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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

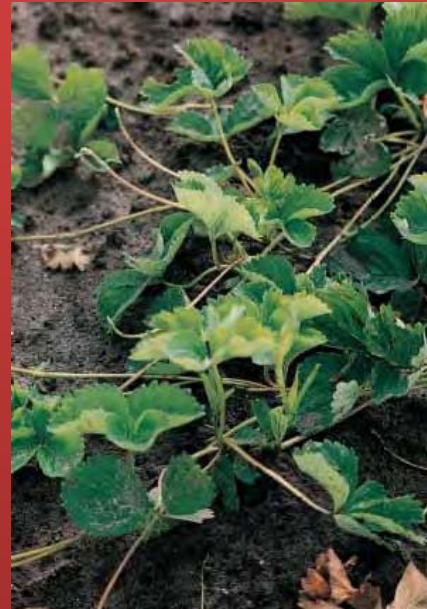
The holder may make his authorization subject to conditions and limitations

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



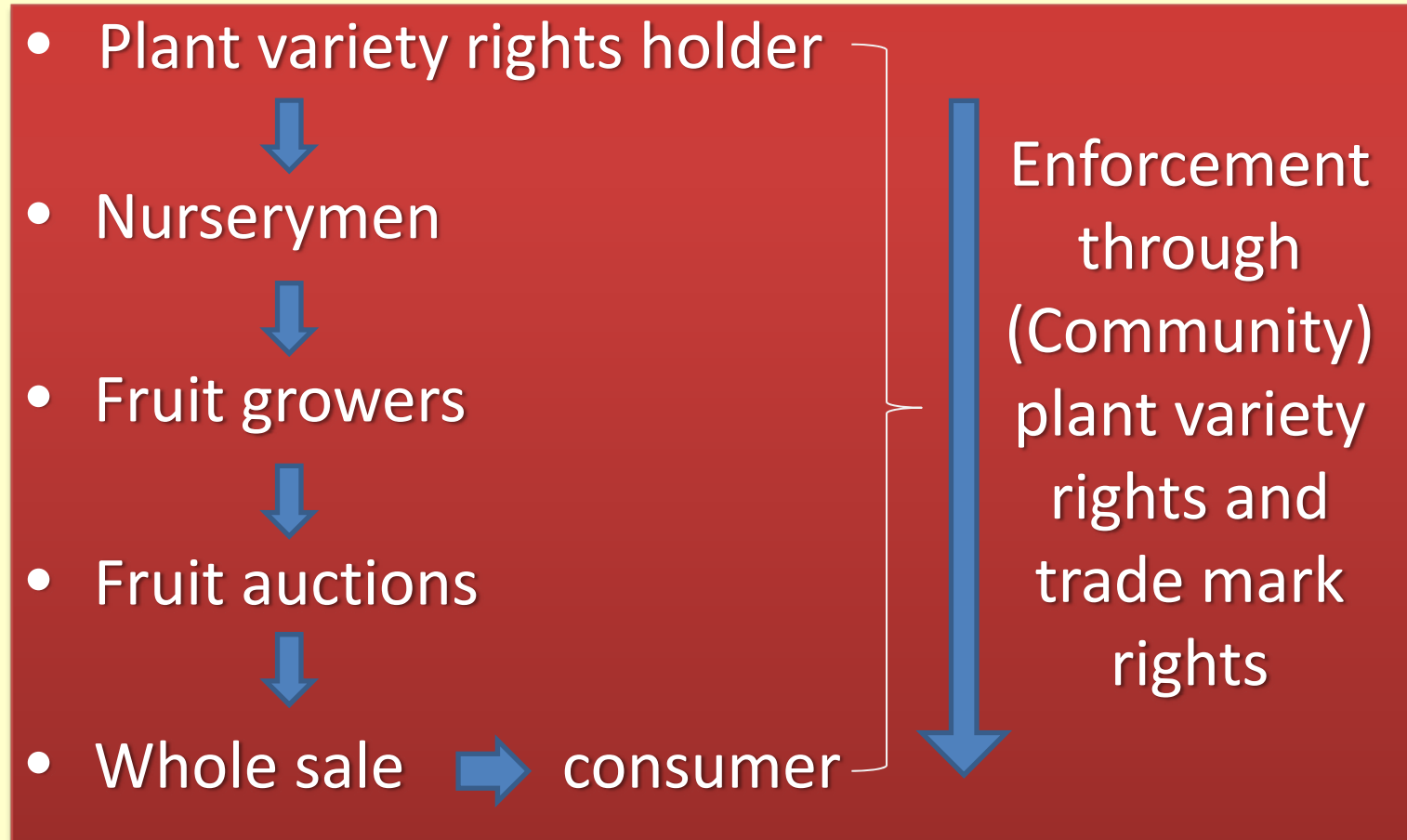
Point of view of trade; CPVR in practice



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