

What Are Patented Plants?

Q: I am told that I should not propagate patented plants. What Are Patented Plants?

A: Patenting a plant is just like patenting any other invention or product. Once a plant variety is patented (or has a patent pending - PPAF), a royalty is paid to the breeder for each plant sold. This royalty can range anywhere from cents to many dollars. Patenting can be an expensive, risky and very time-consuming process. Plant patents are issued for 20 years and there is no guarantee that gardeners will love a new variety, so costs for breeding may never be recouped.

When shopping for plants at your local nursery or garden center, you may have noticed the initials PP with a number following it or PPAF after the botanical name. This is a patented plant or a plant that has a patent applied for. What does this mean for the home gardener? Not much, except that the price will be higher than many other plants in a similar-sized container and propagation by any means is prohibited by law. The plant police will probably not come knocking at your door but here are a few points that may explain why it is not a good idea to propagate these plants even for your own use.

Plant patents are an incentive for innovation by plant breeders and the horticulture industry as a whole. Patenting also gives plant varieties more value in the marketplace and consumers will normally not complain when paying more for a plant they perceive as premium. In the hope of financial payback, plant breeders try sometimes for years to breed the perfect plant and without patent protection, there would probably be fewer new introductions in horticulture.

A patent legally prevents others from reproducing the protected plant variety by cuttings, tissue culture or any other method of asexual propagation without the written authorization or licensing of the patent holder. Possession of improperly propagated plants of patented varieties constitutes infringement, even if an illegal propagation was inadvertent. Large commercial nursery operations have been shut down, had plants confiscated and/or paid enormous fines for propagating patented or patent-applied-for plants. Even though this would probably not happen to home gardeners, it is still illegal to propagate these plants.

So, when shopping at a garden center or nursery, look for a patent number on the plant tag following the cultivar name, or the initials PPAF (plant patent applied for). If one or the other is present, just know that you will only have this one plant in your garden and if you love it, you will have to buy more instead of propagating it.