

INTELLECTUAL PROPERTY RIGHTS APPLICABLE TO FRUIT TREES AND THE LIKELY EFFECTS ON REGIONAL AND GLOBAL AVOCADO INDUSTRIES

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In the past, avocado cultivars have been selected and made available for all to use freely. However, capital investment into breeding, selection and testing programmes have become excessively high and methods to recover some of these costs have had to be devised. The registration of plant breeder's rights and patents on fruit cultivars and rootstocks has been practiced for most of the last century, but it is only relatively recently that the use of these rights for commercial gain has been pursued. The most well known successful example is the Pink Lady™ apple. In avocado, the example of Hass, which had a plant patent registered in the 1940's, is discussed. The slow speed of development resulted in Hass' commercial success long after the patent had lapsed. More recent examples of protected avocado cultivars e.g. Lamb Hass, Merensky 2 Dusa® and Gem, and their commercialization strategies are discussed. Different models for current and future avocado cultivar releases and commercialization, and their likely impact on the world avocado industries are analyzed.