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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

INTERNATIONAL FRUIT GENETICS, LLC, a California limited liability company, Plaintiff, v. ORCHARDDEPOT.COM, a business entity form unknown; CASEY DONAHUE, an individual; IAN DONAHUE, an individual; JOHN DOE NO. 1, an unknown seller on Amazon.com aka NYURKA80; JOHN DOE NO. 2, an unknown seller on Amazon.com aka GardenSoul; and JOHN DOE NO. 3, an unknown seller on Amazon.com aka Garden55, Defendants.	CASE NO. **COMPLAINT FOR DAMAGES AND INJUNCTIVE RELIEF** **DEMAND FOR JURY TRIAL**

Plaintiff INTERNATIONAL FRUIT GENETICS, LLC, a California limited liability company ("Plaintiff" or "IFG"), by its attorneys, as and for its Complaint against ORCHARDDEPOT.COM, a business entity form unknown; CASEY DONAHUE, an individual; IAN DONAHUE, an individual, JOHN DOE NO. 1, an unknown seller on Amazon.com aka NYURKA80; JOHN DOE NO. 2, an unknown seller on Amazon.com aka GardenSoul; and JOHN DOE NO. 3, an unknown seller on Amazon.com aka Garden55 (collectively, "Defendants") alleges as follows:

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NATURE OF ACTION

1. IFG develops and patents proprietary hybrid table grape varieties in the United States and other countries around the world. IFG then licenses growers around the world to grow its proprietary plants and market the fruit from these plants. IFG retains strict controls over its proprietary hybrid grape varieties, retaining ownership of all the plants and plant material at all times. Its licensed growers are strictly prohibited from delivering plants or plant material to third parties.

2. Defendants are offering for sale and/or selling cuttings from IFG proprietary hybrid grape vines in violation of IFG's ownership and patent rights. Accordingly, IFG brings this action for patent infringement, conversion, unjust enrichment, and violation of Cal. Bus. & Prof. Code § 17200. Defendants are also using IFG's registered trademark, COTTON CANDY, to market and sell cuttings from IFG's proprietary hybrid grape plants. Accordingly, IFG also brings this action for trademark infringement pursuant to 15 U.S.C. §1114, unfair competition pursuant to 15 U.S.C. §1125(a), common law trademark infringement and common law unfair competition

JURISDICTION AND VENUE

3. This Court has original subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 (federal question) and 1338. This Court has related claim jurisdiction over the state law claims pursuant to 28 U.S.C. § 1367.

4. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b) and 1400(b) because a substantial part of the events or omissions giving rise to the claim occurred in this judicial district, Defendants have conducted business in this judicial district, and/or have committed acts of infringement in this judicial district.

THE PARTIES

5. IFG is a California limited liability company, with its principal place of business at 441 Vineland Road, Bakersfield, Kern County, California.

6. IFG is informed and believes that Defendant Orcharddepot.com is a business entity of unknown form which operates a website using the URL https://orcharddepot.com/ and has

its principal place of business at 1600 Shattuck Avenue in Berkeley, Alameda County, California.

7. IFG is informed and believes that Defendant Casey Donahue is a resident of the City and County of San Francisco, California, and is an owner or principal of Defendant Orcharddepot.com.

8. IFG is informed and believes that Defendant Ian Donahue is a resident of San Pablo, Contra Costa County, California, and is an owner or principal of Defendant Orcharddepot.com.

9. IFG only knows Defendants John Doe No. 1, John Doe No. 2 and John Doe No. 3 by the usernames that they use on an online marketplace operated by Amazon.com Inc. using the domain name Amazon.com. (Amazon.com Inc. and/or its website are referred to herein as "Amazon"). IFG is informed and believes that Amazon can identify John Doe No. 1, John Doe No. 2 and John Doe No. 3.

10. Defendant John Doe No. 1 is a seller on Amazon utilizing the username "NYURKA80."

11. Defendant John Doe No. 2 is a seller on Amazon utilizing the username "GardenSoul."

12. Defendant John Doe No. 3 is a seller on Amazon utilizing the username "Garden55."

13. IFG is informed and believes that John Doe No. 1, John Doe No. 2 and John Doe No. 3 are affiliated with, and are acting in active concert with each other and the other Defendants in this action as hereinbelow alleged.

FACTUAL BACKGROUND

14. IFG was founded in Bakersfield, California, in 2001. IFG invents, develops, grows, evaluates, and licenses hybrid table grape varieties in the United States and ten other countries around the world.

15. Under the direction of Dr. David Cain ("Dr. Cain"), IFG operates a grape-breeding program to invent and develop new varieties of table grapes that would be of particular

interest to commercial growers. IFG has spent millions of dollars in the last fifteen years on its breeding program. This research has been successful, and IFG has bred and identified dozens of new varieties of table grapes of interest.

16. The process behind IFG's business is as follows: after IFG develops a table grape variety of interest, IFG applies for a plant patent for such grapevine variety with the United States Patent and Trademark Office ("USPTO"), as well as for "plant breeders' rights" for such table grape variety in a number of countries. The value in IFG's business lies in the intellectual property rights that IFG holds in respect to the proprietary plant varieties that it develops. IFG's income is derived principally from these rights. Consequently, it is of critical importance to IFG that these rights are closely guarded, controlled, and monitored.

17. To keep control over the propagation of its plant material, IFG licenses a very limited number of nurseries to propagate IFG proprietary grape plants and distribute these plants to IFG's licensed growers.

18. IFG enters into license agreements with grape growers which permit the growers to grow, market, farm, and/or sell the table grapes from IFG's proprietary table grape varieties, subject to the terms and conditions of the license agreements. These license agreements expressly forbid the growers from propagating new vines themselves and/or distributing the vines or cuttings therefrom to third parties. Currently, IFG has dozens of table grape varieties being grown by hundreds of growers around the world, pursuant to hundreds of such license agreements.

19. IFG's license agreements with its nurseries and growers expressly provide that ownership of the proprietary plant material remains with IFG at all times.

The Grape Varieties at Issue

U.S. Patent No. PP 23,531 – IFG Six

20. As a result of the efforts described in paragraph 15 hereof, IFG developed the IFG Six table grape variety. On June 22, 2011, Dr. Cain (as inventor) applied to the USPTO for a plant patent for the IFG Six grapevine variety. On April 16, 2013, U.S. Patent No. PP 23,531 entitled "Grapevine 'IFG Six" (the "'531 Patent"), was duly and legally issued to IFG, the owner

by assignment of the '531 Patent. The '531 Patent describes and claims the variety of grapevine denominated IFG Six. The IFG Six grapevine is characterized by producing naturally large, elongated narrow diameter, crisp seedless black berries having a distinct dimple on the distal end. A true and correct copy of the '531 Patent is attached hereto as Exhibit A.

21. Since August 2015, one of IFG's licensed growers, The Grapery, Inc., has marketed IFG's IFG Six grapes under the now registered trademark MOON DROPS, U.S. Registration No. 4,852,504.

U.S. Patent No. PP 24,879 – IFG Twelve

22. As a result of the efforts described in paragraph 15 hereof, IFG developed the IFG Twelve table grape variety. On July 9, 2012, Dr. Cain (as inventor) applied to the USPTO for a plant patent for the IFG Twelve grapevine variety. On September 16, 2014, U.S. Patent No. PP 24,879 entitled "Grapevine 'IFG Twelve" (the "'879 Patent"), was duly and legally issued to IFG, the owner by assignment of the '879 Patent. The '879 Patent describes and claims the variety of grapevine denominated IFG Twelve. The IFG Twelve grapevine is characterized by producing very pointed narrow reddish purple grapes having small to medium sized seed traces. A true and correct copy of the '879 Patent is attached hereto as Exhibit B.

23. Since August 2015, Grapery, Inc. has marketed IFG's IFG Twelve grapes under the now registered trademark TEAR DROPS.

U.S. Patent No. PP 26,121 – IFG Nineteen

24. As a result of the efforts described in paragraph 15 hereof, IFG developed the IFG Nineteen table grape variety. On July March 18, 2014, Dr. Cain (as inventor) applied to the USPTO for a plant patent for the IFG Nineteen grapevine variety. On November 24, 2015, U.S. Patent No. PP 26,121 entitled "Grapevine 'IFG Nineteen" (the "'121 Patent"), was duly and legally issued to IFG, the owner by assignment of the '121 Patent. The '121 Patent describes and claims the variety of grapevine denominated IFG Nineteen. The IFG Nineteen grapevine is characterized by producing naturally large seedless berries having a broad ellipsoid shape with unique strong fruity flavor having a combination of muscat and labrusca flavors. A true and correct copy of the '121 Patent is attached hereto as Exhibit C.

25. IFG and/or its licensees have used the trademark COTTON CANDY to market IFG Nineteen grapevines and IFG Nineteen grapes in interstate commerce. IFG registered the COTTON CANDY trademark with the United States Patent and Trademark Office and is the owner of the registered trademark COTTON CANDY, U.S. Registration No. 4,007,539 in International Class 31 for "Live plants namely grape vines" ("the '539 Mark") and the owner of the registered trademark COTTON CANDY, U.S. Registration No. 4,109,691 in International Class 31 for "Fruits namely, fresh grapes" ("the '691 Mark"). On March 31, 2017, for each of the '539 Mark and the '691 Mark, IFG filed a combined Declaration of Use and Incontestability under Sections 8 and 15 of the Lanham Act with the USPTO. Accordingly, both of the COTTON CANDY trademark registrations are valid, subsisting, and incontestable pursuant to 15 U.S.C. § 1065 and § 1115(b).

26. Defendants and each of them have been offering for sale and selling cuttings from IFG proprietary plants on Amazon.com, and/or through the online orchard supply store Orcharddepot.com, to customers who IFG is informed and believes are using such cuttings to propagate IFG's proprietary and patented hybrid grapevine varieties.

27. Within the last three months, John Doe No. 1 aka NYURKA80 ("Doe No. 1") has offered for sale and sold grapevine cuttings on Amazon.com with listings entitled "Grape vine cuttings – 5 cuttings – the Moon Drop Grape," and/or "'Moon Drop' 3 vine cuttings for propagation." The listings for these grape cuttings contained a picture of grapes which appear to be the IFG Six varietal. IFG is informed and believes that the cuttings offered and sold by Doe No. 1 were of the IFG Six varietal.

28. Within the last three months, John Doe No. 2 aka GardenSoul ("Doe No. 2") has offered for sale and sold grapevine cuttings on Amazon.com in a listing entitled "Grape vine cuttings – 5 cuttings - the Moon Drop Grape." IFG is informed and believes that the cuttings offered and sold by Doe No. 2 were of the IFG Six varietal.

29. At the time of filing of this Complaint, the listings posted by Doe. No. 1 and Doe No. 2 offering to sell cuttings of "Moon Drop" grapevines were no longer active on Amazon. However, a listing similar to those appearing on Amazon entitled "'Moon Drop' grape – 3 vine

cuttings for propagation" now appears on the online orchard supply store at the URL https://OrchardDepot.com which IFG is informed and believes is operated by Defendant Orcharddepot.com and is owned by Defendants Casey Donahue and Ian Donahue. The listing contains a photograph of grapes which appear to be of the IFG Six varietal. IFG is informed and believes that the cuttings being offered and sold as "Moon Drop" grapevines on this website are of the IFG Six varietal.

30. Within the last three months, Doe No. 1 has offered for sale and sold grapevine cuttings on Amazon.com in a listing entitled "'Tear Drops' grape 3 vine cuttings for propagation." The listing for these grape cuttings contained a photograph of grapes which appear to be of the IFG Twelve varietal. IFG is informed and believes that these cuttings offered and sold by Doe No. 1 were of the IFG Twelve varietal.

31. Within the last three months, Doe No. 2 has offered for sale and sold grapevine cuttings on Amazon.com in a listing entitled "'Tear Drops' grape 3 vine cuttings for propagation." The listing for these grape cuttings contained a photograph of grapes which appear to be the IFG Twelve varietal. IFG is informed and believes that these cuttings offered and sold by Doe No. 2 were of the IFG Twelve varietal.

32. Within the last three months, John Doe No. 3 aka Garden55 ("Doe No. 3") has offered for sale and sold grapevine cuttings on Amazon.com in a listing entitled "'Tear Drops' grape 3 vine cuttings for propagation." The listing for these grape cuttings contained a photograph of grapes which appear to be the IFG Twelve varietal and which appears to be identical to the photograph used by Doe. No. 1. IFG is informed and believes that these cuttings offered and sold by Doe No. 3 were of the IFG Twelve varietal.

33. At the time of filing of this Complaint, the listings posted by Doe. No. 1 and Doe No. 2 and Doe No. 3 offering to sell cuttings of "Tear Drop" grapevines are no longer active on Amazon. However, a listing similar to those appearing on Amazon entitled "Grape vine cuttings – 5 cuttings- Tear Drops" now appears on the online orchard supply store at the URL https://OrchardDepot.com which IFG is informed and believes is operated by Defendant Orcharddepot.com and is owned by Defendants Casey Donahue and Ian Donahue. The listing

contains a photograph of grapes which appear to be the IFG Six varietal. The photograph also appears to be identical to the photograph used by Doe No. 1 and Doe No. 3 on Amazon. IFG is informed and believes that the cuttings being offered and sold by on this website are of the IFG Twelve varietal.

34. Within the last three months, Doe No. 1 has offered for sale and sold grapevine cuttings on Amazon with a listing for "COTTON CANDY Grape" cuttings. The listing contained a photograph of what appears to be grapevine cuttings. IFG is informed and believes that these cuttings offered and sold by Doe No. 1 were of the IFG Nineteen varietal.

35. Within the last three months, Doe No. 2 has offered for sale and sold grapevine cuttings on Amazon with a listing for "COTTON CANDY Grape" cuttings. This listing contained a photograph of what appears to be grapevine cuttings. The photograph appears to be identical to the photograph used by Doe No. 1. IFG is informed and believes that these cuttings offered and sold by Doe No. 2 were of the IFG Nineteen varietal.

36. At the time of filing of this Complaint, the listings posted by Doe. No. 1 and Doe No. 2 offering to sell cuttings of "Cotton Candy" grapevines are no longer active on Amazon. However, a listing similar to those appearing on Amazon entitled "5 cuttings – COTTON CANDY Grape vine cuttings" now appears on the online orchard supply store at the URL https://OrchardDepot.com which IFG is informed and believes is operated by Defendant Orcharddepot.com and is owned by Defendants Casey Donahue and Ian Donahue. The listing contains a photograph of grapevines which appears to be identical to the photograph used by Doe No. 1 and Doe No. 3 on Amazon. IFG is informed and believes that the Cotton Candy grapevine cuttings being offered and sold on this website are of the IFG Nineteen varietal.

FIRST CLAIM FOR RELIEF

Infringement of U.S. Patent No. PP 23,531

(Against Orcharddepot.com, Casey Donahue, Ian Donahue, Doe No. 1 and Doe No. 2)

37. IFG repeats and re-alleges the allegations of paragraphs 1 through 36 above as if fully set forth herein.

38. In violation of 35 U.S.C. § 271, Defendants Orcharddepot.com, Casey Donahue,

Ian Donahue, Doe No. 1 and Doe No. 2 have infringed, continue to infringe, and/or will infringe the '531 Patent by asexually propagating, using, offering for sale, and/or selling the grapevine plant known as IFG Six and/or the fruit thereof. Each of these Defendants is directly infringing the '531 Patent, and/or is inducing or contributing to its infringement by others.

39. IFG has been and will be damaged by Defendants' infringement. Unless these Defendants, and each of them, are enjoined by this Court, their continuing willful infringement will threaten the integrity of IFG's variety licensing program and irreparably harm IFG.

SECOND CLAIM FOR RELIEF

Infringement of U.S. Patent No. PP 24,879

(Against All Defendants)

40. IFG repeats and re-alleges the allegations of paragraphs 1 through 39 above as if fully set forth herein.

41. In violation of 35 U.S.C. § 271, Defendants have infringed, continue to infringe, and/or will infringe the '879 Patent by asexually propagating, using, offering for sale, and/or selling the grapevine plant known as IFG Twelve and/or the fruit thereof. Each of the Defendants is directly infringing the '879 Patent, and/or is inducing or contributing to its infringement by others.

42. IFG has been and will be damaged by Defendants' infringement. Unless Defendants, and each of them, are enjoined by this Court, their continuing willful infringement will threaten the integrity of IFG's variety licensing program and irreparably harm IFG.

THIRD CLAIM FOR RELIEF

Infringement of U.S. Patent No. PP 26,121

(Against Orcharddepot.com, Casey Donahue, Ian Donahue, Doe No. 1 and Doe No. 3)

43. IFG repeats and re-alleges the allegations of paragraphs 1 through 42 above as if fully set forth herein.

44. In violation of 35 U.S.C. § 271, Defendants Orcharddepot.com, Casey Donahue, Ian Donahue, Doe No. 1 and Doe No. 3 have infringed, continue to infringe, and/or will infringe the '121 Patent by asexually propagating, using, offering for sale, and/or selling the grapevine

plant known as IFG Nineteen and/or the fruit thereof. Each of these Defendants is directly infringing the '121 Patent, and/or is inducing or contributing to its infringement by others.

45. IFG has been and will be damaged by Defendants' infringement. Unless these Defendants, and each of them, are enjoined by this Court, their continuing willful infringement will threaten the integrity of IFG's variety licensing program and irreparably harm IFG.

FOURTH CLAIM FOR RELIEF

Unjust Enrichment

(Against all Defendants)

46. IFG repeats and re-alleges the allegations of paragraphs 1 through 45 above as if fully set forth herein.

47. By offering for sale and selling cuttings from IFG proprietary hybrid grapevines, all in an unlawful manner and without authorization, Defendants have unjustly received significant benefits including profits from the sales of these cuttings.

48. Defendants' unjust receipt and retention of such benefits has unjustly enriched them at the expense of IFG in an amount to be determined at trial.

FIFTH CLAIM FOR RELIEF

Violation of California Business and Professions Code §17200

(Against all Defendants)

49. IFG repeats and re-alleges the allegations of paragraphs 1 through 48 above as if fully set forth herein.

50. In violation of California Business and Professions Code §17200, Defendants have unlawfully and unfairly obtained and sold IFG proprietary plant material.

51. The unlawful and unfair acts of Defendants are undermining IFG's licensing program and its significant investment in that program by, *inter alia*, making IFG proprietary plants available outside of the IFG's licensing program.

52. Unless Defendants are enjoined, they will continue their unlawful and unfair acts and IFG will continue to be irreparably harmed.

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SIXTH CLAIM FOR RELIEF

Federal Trademark Infringement 15 U.S.C. §1114

(Against Orcharddepot.com, Casey Donahue, Ian Donahue, Doe No. 1 and Doe No. 3)

53. IFG repeats and re-alleges the allegations of paragraphs 1 through 52 above as if fully set forth herein

54. Orcharddepot.com's, Casey Donahue's, Ian Donahue's, Doe No. 1's and Doe No. 2's use of COTTON CANDY to market and sell grapevine cuttings constitutes a use in commerce of a reproduction, copy, or colorable imitation of, IFG's registered '539 Mark and '691 Mark which use is likely to cause consumer confusion, mistake and deception as to source, sponsorship or approval of Orcharddepot.com's, Doe No. 1's and/or Doe No. 2's goods in violation of 15 U.S.C. § 1114. Moreover, Orcharddepot.com's, Casey Donahue's, Ian Donahue's, Doe No. 1's and Doe No. 2's foregoing acts are causing irreparable harm to IFG for which there is no adequate remedy at law.

55. Orcharddepot.com's, Casey Donahue's, Ian Donahue's, Doe No. 1's and Doe No. 2's ongoing acts of infringement are willful and deliberate, and result in substantial damage to IFG in an amount to be determined at trial.

56. By reason of the foregoing acts, Orcharddepot.com, Casey Donahue, Ian Donahue Doe No. 1 and Doe No. 2 are liable to IFG for trademark infringement under 15 U.S.C. § 1114.

SEVENTH CLAIM FOR RELIEF

Unfair Competition 15 U.S.C. §1125(a)

(Against Orcharddepot.com, Casey Donahue, Ian Donahue, Doe No. 1 and Doe No. 2)

57. IFG repeats and re-alleges the allegations of paragraphs 1 through 56 above as if fully set forth herein.

58. Orcharddepot.com's, Casey Donahue's, Ian Donahue's, Doe No. 1's and Doe No. 2's use of COTTON CANDY in connection with their marketing and selling of grapevine cuttings is such a colorable imitation and copy of IFG's established trademarks, such use is likely to create confusion, or to cause mistake, or to deceive consumers as to the affiliation, connection or association of IFG's products, or to deceive consumers as to the origin, sponsorship or

approval of these Defendants' products in violation of 15 U.S.C. § 1125(a).

59. Orcharddepot.com's, Casey Donahue's, Ian Donahue's, Doe No. 1's and Doe No. 2's use of the COTTON CANDY Mark constitutes a false designation of origin in violation of 15 U.S.C. § 1125(a).

60. Orcharddepot.com's, Casey Donahue's, Ian Donahue's, Doe No. 1's and Doe No. 2's ongoing acts of unfair competition and false designation of origin are willful and deliberate, and result in substantial damage to IFG in an amount to be determined at trial.

SEVENTH CLAIM FOR RELIEF

Common Law Unfair Competition

(Against all Defendants)

61. IFG repeats and re-alleges the allegations of paragraphs 1 through 60 above as if fully set forth herein.

62. Defendants' actions constitute unfair competition under the common law of the State of California.

63. Defendants' ongoing acts of unfair competition are willful and deliberate, and result in substantial damage to IFG in an amount to be determined at trial.

SEVENTH CLAIM FOR RELIEF

Common Law Trademark Infringement

(Against all Defendants)

64. IFG repeats and re-alleges the allegations of paragraphs 1 through 63 above as if fully set forth herein.

65. The general consuming public of California widely recognizes the COTTON CANDY trademark as designating IFG as the source of table grapes. IFG has common law trademark rights in the COTTON CANDY trademark under California law.

66. Defendants' actions, as hereinbefore alleged, constitute trademark infringement in violation of the common law of the State of California.

67. Defendants' ongoing acts of infringement are willful and deliberate, and result in substantial damage to IFG in an amount to be determined at trial.

NINTH CLAIM FOR RELIEF

Conversion

(Against all Defendants)

68. IFG repeats and re-alleges the allegations of paragraphs 1 through 67 above as if fully set forth herein.

69. IFG owns all IFG proprietary plants and plant material and specifically all IFG Six, IFG Twelve and IFG Nineteen plants and plant material.

70. Defendants are selling these plant materials for their own benefit and have converted these goods for their own use in a manner that is inconsistent with IFG's property right.

71. As a direct and proximate result of Defendants' wrongful conduct, IFG has incurred damages according to proof, together with interest thereon at the maximum legal rate.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff IFG requests that judgment be entered as follows:

1. For a preliminary and permanent injunction enjoining Defendants, and their trustees, agents, servants, and employees, and all persons acting under, in concert with, or for Defendants, from obtaining, propagating, cultivating, using or selling any IFG proprietary grape plants or organic material from such plants;

2. For an order requiring Defendants, and each of them, to deliver to IFG, or if so directed by IFG in writing, destroy under the supervision of IFG, all IFG proprietary grape plants and any plant material from such plants within Defendants' possession, custody or control;

3. For an order requiring Defendants, and each of them, to deliver an accounting of all IFG proprietary plant material sold to or delivered to third parties, including the name, delivery address, telephone number, and any other contact information Defendants may have for such third parties;

4. That Defendants be preliminarily and permanently enjoined from: (a) using IFG's COTTON CANDY trademarks or any colorable imitation thereof; (b) using any trademark that imitates, or is confusingly similar to, or in any way similar to IFG's trademarks COTTON CANDY, or that is likely to cause confusion, mistake, deception, or public misunderstanding as

to the origin of IFG's products or their connectedness to Defendants;

5. For an order directing Defendants, and each of them, to file with this Court, and serve on Plaintiff within fifteen (15) days (or such other reasonable period as the Court may direct) after service of an injunction, a report in writing, under oath, setting forth in detail the manner and form in which Defendants have complied with any injunction or restraining order;

6. As to those claims for which this element of relief is applicable, for compensatory damages in an amount to be determined at trial, plus interest at the legal rate;

7. As to those claims to which this element of relief is applicable, for a trebling of damages pursuant to 35 U.S.C. § 284;

8. As to those claims to which this element of relief is applicable, for exemplary or punitive damages;

9. As to those claims for which this element of relief is applicable, for Plaintiff's reasonable attorneys' fees and court costs expended in this action;

10. For costs of the suit incurred herein;

11. For such other and further relief as the Court may deem just and proper; and

12. For trial by jury of this action and its claims for relief.

Dated: May 18, 2017

CARLE, MACKIE, POWER & ROSS LLP

By: /s/ *Richard C. O'Hare*

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Attorneys for Plaintiff
International Fruit Genetics, LLC

DEMAND FOR JURY TRIAL

As set forth in its Complaint and prayer for relief, Plaintiff hereby requests a trial by jury in this matter.

Dated: May 18, 2017

CARLE, MACKIE, POWER & ROSS LLP

By: /s/*Richard C. O'Hare*

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International Fruit Genetics, LLC

EXHIBIT A

US00PP23531P3

(12) **United States Plant Patent**
Cain

(10) **Patent No.: US PP23,531 P3**
(45) **Date of Patent: Apr. 16, 2013**

(54) **GRAPEVINE 'IFG SIX'**

(50) Latin Name: ***Vitis vinifera***
Varietal Denomination: **IFG Six**

(75) Inventor: **David Cain**, Bakersfield, CA (US)

(73) Assignee: **International Fruit Genetics LLC**, Bakersfield, CA (US)

(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 0 days.

(21) Appl. No.: **13/134,947**

(22) Filed: **Jun. 22, 2011**

(65) **Prior Publication Data**

US 2012/0331596 P1 Dec. 27, 2012

(51) **Int. Cl.**
A01H 5/00 (2006.01)

(52) **U.S. Cl.** **Plt./205**

(58) **Field of Classification Search** Plt./205
See application file for complete search history.

Primary Examiner — Annette Para

(57) **ABSTRACT**

This invention is a new and distinct grapevine variety denominated 'IFG Six'. The new grapevine is characterized by producing naturally large, extremely elongated, narrow diameter, crisp, seedless black berries having a distinct dimple on the distal end. The fruit ripen and are commercially harvestable from late August to mid-September. Berries color to full black and store well.

1 Drawing Sheet

Latin name of the genus and species claimed: *Vitis vinifera.*
Variety denomination: 'IFG Six'.

BACKGROUND OF THE INVENTION

The new and distinct grapevine described and claimed herein originated from a hand pollination of the Beita Mouni (non-patented) variety and an unnamed USDA selection designated 'C22-121' performed in May 2004. The resulting plants were planted into the field in April 2005. The present variety of grapevine was selected as a single plant in July 2006 and was first asexually propagated by hardwood cuttings in December 2006, near Delano, Kern County, Calif. The resulting propagules were planted during April 2007 near Delano, Kern County Calif.

BRIEF SUMMARY OF THE INVENTION

The new grapevine 'IFG Six' is characterized by producing large, extremely elongated cylindrical seedless black fruit with a characteristic dimpled tip. The shape, which to the author's knowledge is unique among seedless table grape varieties, provides consumers with a distinct visual signal to identify the new variety. The new variety is further characterized by producing large berries that do not require any gibberellic acid application or trunk girdling to attain commercially acceptable berry size. Berries are completely black, crisp in texture and of high eating quality. Vines of 'IFG Six' are moderately productive. The fruit ripen in mid to late August and are moderately prone to sunburn damage. Fruit store well and are suitable for international commerce and long-term cold storage.

'IFG Six' differs from its maternal parent by producing elongated black seedless berries as opposed to seeded white fruits of the 'Beita Mouni'. It differs from its pollen parent by producing much larger more crisp seedless berries with a distinct dimpled end which the 'C22-121' lacks.

BRIEF DESCRIPTION OF THE FIGURE

The accompanying photographic illustration in FIG. 1 illustrates in full color 'IFG Six'. The colors are as nearly true as is reasonably possible in a color representation of this type.

DETAILED BOTANICAL DESCRIPTION OF THE INVENTION

Throughout this specification, color names beginning with a small letter signify that the name of that color, as used in common speech, is aptly descriptive. Color names beginning with a capital letter designate values based upon R.H.S. Colour Chart, published by The Royal Horticultural Society, London, England.

Throughout this specification subjective description values conform to those set forth by the International Plant Genetic Resources Institute publication 'Descriptors for Grape' (*Vitis* spp.) (1983) which was developed in collaboration with the Office International de la Vigne et du Vin (OIV) and the International Union for the Protection of New Varieties of Plants (UPOV).

The descriptive matter which follows pertains to 'IFG Six' plants grown in the vicinity of Delano, Kern County, Calif. during 2009 and 2010, and is believed to apply to plants of the variety grown under similar conditions of soil and climate elsewhere:

VINE

General:

Size.—Large-Medium.
Vigor.—Vigorous.
Density of foliage.—Medium.
Productivity.—Moderately Productive.
Root stock.—Own root.
Training method.—Typically spur pruned leaving 2 bud spurs but may benefit from longer canes in some conditions.

Trunk:

Trunk diameter of 4-year-old vines at 30 cm above the soil line.—6.1 cm.

Shape.—Medium to Stocky.

Straps.—Short — Split.

Surface texture.—Medium rough.

Inner bark color.—Can be any of the following colors; Brown; 165A and B, and 164A, and 177B.

SHOOTS

Young shoot:

Form of tip.—Wide open.

Distribution of anthocyanin coloration of tip.—Absent.

Intensity of anthocyanin coloration of tip.—Absent.

Density of prostrate hairs of tip.—Dense.

Density of erect hairs of tip.—Absent.

Color.—Can be any of the following colors; Green; 145A, and 146 A and B.

Woody shoot (mature canes):

Shape.—Stocky — Medium Thick.

Internode length.—Short; About 10.6 cm.

Width at node.—About 0.8 cm.

Cross section.—Circular.

Surface.—Striate.

Main color.—Can be any of the following colors; Yellowish brown; 166A and B and C and D, and 165A, and 164D, and 174A.

Density of erect hairs of nodes.—Medium.

Density of erect hairs on internodes.—Medium.

Growth of axillary shoots.—Weak; Approximately 12.1 cm.

Flowering shoot:

Vigor during flowering.—Strong.

Attitude during flowering on shoots not tied.—Drooping.

Color.—Dorsal side of internodes — Green with Red stripes.

Color.—Ventral side of internodes — Green with Red stripes.

Color.—Dorsal side of nodes — Green.

Color.—Ventral side of nodes — Green with Red stripes.

Density of prostrate hairs of nodes.—Sparse.

Density of erect hairs of nodes.—Very sparse to Sparse.

Density of prostrate hairs on internode.—Sparse.

Density of erect hairs on internode.—None.

Anthocyanin coloration of buds.—Absent.

Tendrils:

Distribution on the shoot (at full flowering).—Discontinuous.

Length of tendril.—Medium; About 21.7 cm.

Thickness.—Medium to thick.

Color.—Can be any of the following colors; Yellow-Green; N144A, and 144B and C.

Form.—Bifurcated to Mostly trifurcated, occasionally bifurcated or quadfurcated.

Number of consecutive tendrils.—2.

LEAVES

Young leaves:

Color of upper surface of first four distal unfolded leaves.—Can be either of the following colors; Green; 144A, and 146A.

Average intensity of anthocyanin coloration of six distal leaves prior to flowering.—Absent.

Density of prostrate hairs between veins (lower surface).—Sparse.

Density of prostrate hairs on veins (lower surface).—Medium.

Density of erect hairs between veins (lower surface).—Absent.

Density of erect hairs on veins (lower surface).—Sparse.

Mature leaves:

Average length.—About 13.2 cm.

Average width.—About 18.2 cm.

Mature leaf size.—Small-Medium.

Shape of blade.—Pentagonal.

Number of lobes.—5.

Anthocyanin coloration of main veins on upper side of blade.—Absent.

Mature leaf profile.—Undulate.

Blistering surface of blade upper surface.—Weak.

Leaf blade tip.—In the plane of the leaf.

Undulation of margin.—Medium.

Thickness.—Medium.

Undulation of blade between main and lateral veins.—Only near petiole.

Shape of teeth.—Mixture of both sides straight and both sides convex.

Length of teeth.—Short.

Ratio length/width of teeth.—Small.

Shape of upper lateral sinuses.—Lobes slightly overlapping.

Depth of upper lateral sinuses.—Medium.

General shape petiole sinus.—Lobes half overlapping.

Shape of base of upper leaf sinuses.—U-shaped.

Shape of the base of the petiole sinus.—V-shaped.

Tooth at petiole sinus.—Absent.

Density of prostrate hairs between veins on lower surface of blade.—Sparse.

Density if erect hairs between veins on lower surface of blade.—Absent.

Density of prostrate hairs on main veins on lower surface of blade.—Sparse-Medium.

Density of erect hairs on main veins on lower surface of blade.—Sparse.

Density of prostrate hairs on main veins on upper surface of blade.—Very sparse.

Density of erect hairs on main veins on upper surface of blade.—None.

Autumn coloration of leaves.—Leaves can be a single color or combination of colors, in a mottled pattern or on the edges of the leaves; Grey-Yellow; 162A and B, and Grey-Red; 181A and B, and 182A, and Grey-Purple; 187A and B, and 183C and D, and 187A.

Upper surface:

Color.—Can be any of the following colors; Green; 147A, and 137A and B.

Anthocyanin coloration of main veins.—Absent.

Surface appearance.—Dull.

Blistering surface of blade.—Weak to Medium.

Lower surface:

Color.—Can be any of the following colors; Green; 137 B and C and D.

Anthocyanin coloration of main veins (lower surface).—Absent.

Glossiness.—Weak to Medium.

Surface texture.—Rugose

Surface appearance.—Semi-glossy to Dull. .

Petiole:

Length.—About 11.0 cm.

Length of petiole compared to middle vein.—Slightly shorter.

Density of prostrate hairs on petiole.—Sparse.

Density of erect hairs on petiole.—None.

Buds:

Bud fruitfulness.—Basal: Mostly fruitful.

Position of first fruitful shoot on previous season cane.—1st to 2nd node.

Time of bud burst.—Very early; Feb. 18, 2010.

FLOWERS

General:

Flower sex.—Hermaphrodite.

Length of first inflorescence.—Medium; About 23.8 cm long by 12.9 cm wide.

Position of first flowering and fruiting node.—4th-5th node (current season growth).

Number of inflorescence per flowering shoot.—1.1 to 2.

Time of bloom.—Medium as compared with similar varieties in the growing area of Delano, Calif.

Date of full bloom.—May 18, 2010.

FRUIT

General:

Ripening period.—Midseason; mid August to early September.

Use.—Fresh market.

Keeping quality.—Good.

Resistance to.—Insects: Average, typical of *Vitis vinifera* species. Diseases: Average, typical of *Vitis vinifera* species.

Refractometer test.—Solid-sugar: About 19.4 Brix.

Brix/acid.—About 51.1.

Titratable acidity.—About 0.38.

Juice pH.—About 3.88.

Cluster:

Mature cluster length (peduncle excluded).—About 29.0 cm.

Mature cluster width.—About 16.7 cm.

Mature cluster weight.—About 1079 g.

Bunch density.—Loose — usually requires no additional thinning.

Number of berries.—About 154.

Form.—Cylindrical.

Peduncle:

Lignification of peduncle.—Weak to Medium.

Length of peduncle.—Approximately 6.0 cm.

Berry:

Uniformity of size.—Uniform.

Single berry weight.—About 10.0 g.

Shape.—Cylindrical usually having a dimpled tip.

Seeds.—Absent.

Cross section.—Circular.

Berry dimensions.—Longitudinal axis: About 41 mm. Horizontal axis: About 18 mm.

Berry firmness.—Medium firm to crisp.

Particular flavor.—Neutral.

Bloom (cuticular wax).—Medium to heavy.

Berry separation from pedicel.—Medium strong.

Skin color (without bloom).—Blue-black; 202A.

Skin:

Thickness.—Medium.

Texture.—Medium tough.

Reticulation.—Absent.

Tenacity.—Tenacious to flesh.

What is claimed:

1. A new and distinct variety of grapevine as herein illustrated and described.

* * * * *

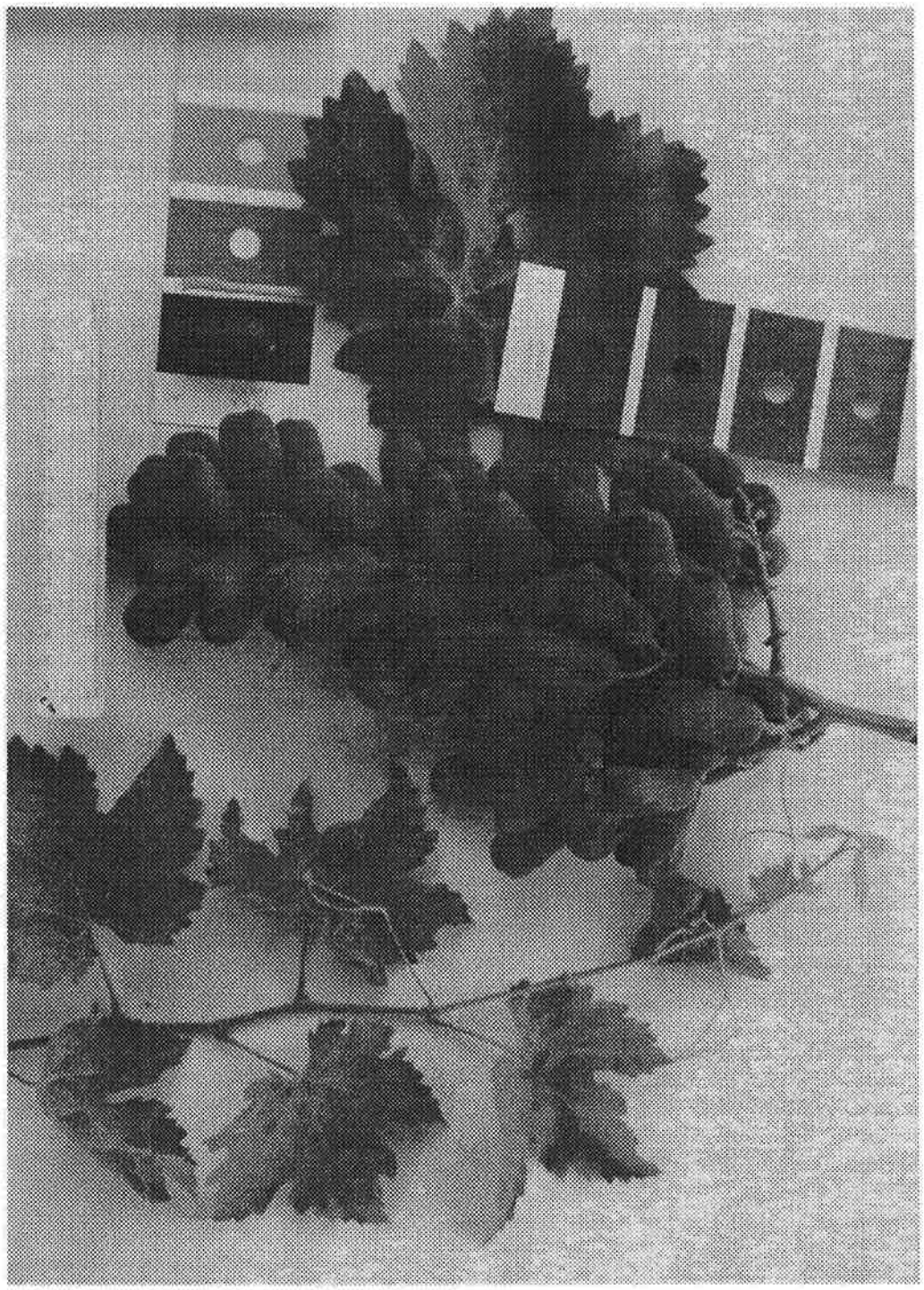

EXHIBIT B


US00PP24879P3

(12) **United States Plant Patent**
Cain

(10) **Patent No.: US PP24,879 P3**
(45) **Date of Patent: Sep. 16, 2014**

(54) **GRAPEVINE 'IFG TWELVE'**

(50) Latin Name: ***Vitis interspecific* hybrid**
Varietal Denomination: **IFG Twelve**

(75) Inventor: **David Cain**, Bakersfield, CA (US)

(73) Assignee: **International Fruit Genetics, LLC**, Bakersfield, CA (US)

(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 95 days.

(21) Appl. No.: **13/507,543**

(22) Filed: **Jul. 9, 2012**

(65) **Prior Publication Data**

US 2014/0013474 P1 Jan. 9, 2014

(51) **Int. Cl.**
A01H 5/00 (2006.01)

(52) **U.S. Cl.**
USPC **Plt./205**

(58) **Field of Classification Search**
USPC Plt./205
See application file for complete search history.

Primary Examiner — Annette Para

(57) **ABSTRACT**

This invention is a new and distinct grapevine variety denominated 'IFG Twelve'. The new grapevine is characterized by producing very pointed narrow reddish purple grapes having small to medium sized seed traces.

1 Drawing Sheet

Latin name of the genus and species claimed: *Vitis* interspecific hybrid.

Variety denomination: 'IFG Twelve'.

BACKGROUND OF THE INVENTION

The new and distinct grapevine described and claimed herein originated from a hand pollinated cross of the Calinda variety and A2409 an unnamed interspecific very elongate pointed seedless grape selection from the University of Arkansas breeding program hybridized in May 2002. The abortive seed traces were subsequently embryo cultured and the resulting plant was planted in the field in April 2003. The present variety of grapevine was selected as a single plant in July 2004 and was first asexually propagated by hardwood cuttings in December 2004, near Delano, Kern County, Calif. The resulting propagules were planted during April 2005 near Delano, Kern County, Calif. and were found to reproduce true-to-type through at least two generations of asexual reproduction.

BRIEF SUMMARY OF THE INVENTION

The new grapevine 'IFG Twelve' is characterized by producing extremely narrow elongated seedless fruit with a characteristic pointed tip. The shape, which to the author's knowledge is unique among commercially available seedless table grape varieties, provides consumers with a distinct visual signal to identify the new variety. The new variety is further characterized by producing medium firm reddish black fruits which ripen early in the growing season. Berries are moderately crisp in texture, mild flavored and may have small to medium size rudimentary seed traces. Bunches are long with narrow shoulders and are naturally loose so require no gibberellin for berry thinning. Vines of 'IFG Twelve' are moderately productive and may require cane pruning. The fruit ripen early season usually mid to late July in Delano.

'IFG Twelve' differs from its maternal parent by producing very elongated narrow pointed reddish black berries having small to medium seed traces as opposed to the red elongated

fruits having very large seed traces of the Calinda variety. It differs from its pollen parent by possessing more firm berries with reddish black coloration as opposed to the narrow, elongate pointed black fruits of A2409. The skin of 'IFG Twelve' is thinner and the taste is less herbaceous than the A2409.

BRIEF DESCRIPTION OF THE FIGURE

The accompanying photographic illustration in FIG. **1** illustrates in full color 'IFG Twelve'. The photograph was taken outdoors with indirect lighting. The colors are as nearly true as is reasonably possible in a color representation of this type.

DETAILED BOTANICAL DESCRIPTION OF THE INVENTION

Throughout this specification, color names beginning with a small letter signify that the name of that color, as used in common speech, is aptly descriptive. Color names beginning with a capital letter designate values based upon R.H.S. Colour Chart, published by The Royal Horticultural Society, London, England.

Throughout this specification subjective description values conform to those set forth by the International Plant Genetic Resources Institute publication 'Descriptors for Grape' (*vitis* spp.) (1983) which was developed in collaboration with the Office International de la Vigne et du Vin (OIV) and the International Union for the Protection of New Varieties of Plants (UPOV).

The descriptive matter which follows pertains to 'IFG Twelve' plants grown in the vicinity of Delano, Kern County, Calif. during 2009 and 2010, and is believed to apply to plants of the variety grown under similar conditions of soil and climate elsewhere:

VINE

General:

Size.—Large.

Vigor.—Vigorous.

Density of foliage.—Dense.

Productivity.—Productive.

Root stock.—Own root.

Training method.—Typically spur pruned leaving 2 bud spurs.

Trunk:

Trunk diameter of 6-year-old vines at 30 cm above the soil line.—13.1 cm.

Shape.—Stocky.

Straps.—Very long.

Surface texture.—Shaggy.

Inner bark color.—Can be any of the following colors; Grey brown; N199B, and Greyed orange; 165A.

SHOOTS

Young shoot:

Form of tip.—Wide open.

Distribution of anthocyanin coloration of tip.—Piping (striped).

Intensity of anthocyanin coloration of tip.—Weak to Medium.

Density of prostrate hairs of tip.—Sparse.

Density of erect hairs of tip.—Absent.

Color.—Can be any of the following colors; Yellow-green; N144C, and 144B.

Woody shoot (mature canes):

Shape.—Stocky.

Internode length.—Medium; About 10.3 cm.

Width at node.—About 0.8 cm.

Cross section.—Circular.

Surface.—Striate.

Main color.—Can be any of the following colors; Greyed-orange; 166A, and B, and C, and 165A, and 174A.

Density of erect hairs of nodes.—None or very sparse.

Density of erect hairs on internodes.—None or very sparse.

Growth of axillary shoots.—Strong; Approximately 44.3 cm.

Flowering shoot:

Vigor during flowering.—Strong.

Attitude during flowering on shoots not tied.—Semi-erect.

Color.—Dorsal side of internodes — Green with Red stripes.

Color.—Ventral side of internodes — Green.

Color.—Dorsal side of nodes — Green.

Color.—Ventral side of nodes — Green.

Density of prostrate hairs of nodes.—None — Very sparse.

Density of erect hairs of nodes.—None.

Density of prostrate hairs on internode.—None.

Density of erect hairs on internode.—None.

Anthocyanin coloration of buds.—Absent.

Tendrils:

Distribution on the shoot (at full flowering).—Discontinuous.

Length of tendril.—Long; About 24.0 cm.

Thickness.—Medium.

Color.—Can be any of the following colors; N144A, and B, with Greyed-orange at tip of new growth; 164A.

Form.—Bifurcated to trifurcated.

Number of consecutive tendrils.—2.

LEAVES

Young leaves:

Color of upper surface of first four distal unfolded leaves.—Green with bronze spots.

Average intensity of anthocyanin coloration of six distal leaves prior to flowering.—Absent or very weak.

Density of prostrate hairs between veins (lower surface).—Absent.

Density of prostrate hairs on veins (lower surface).—Absent — very sparse.

Density of erect hairs between veins (lower surface).—Absent.

Density of erect hairs on veins (lower surface).—Sparse.

Mature leaves:

Average length.—About 16.2 cm.

Average width.—About 14.8 cm.

Mature leaf size.—Medium large.

Shape of blade.—Wedge-shaped.

Number of lobes.—5.

Anthocyanin coloration of main veins on upper side of blade.—Very weak.

Mature leaf profile.—V-shaped to undulate.

Blistering surface of blade upper surface.—Very weak.

Leaf blade tip.—In the plane of the leaf.

Undulation of margin.—Slight.

Thickness.—Medium.

Undulation of blade between main and lateral veins.—Slight.

Shape of teeth.—Mixture of both sides straight and both sides convex.

Length of teeth.—Medium.

Ratio length/width of teeth.—Equal.

Shape of upper lateral sinuses.—Open.

Depth of upper lateral sinuses.—Medium.

General shape petiole sinus.—Wide open.

Shape of base of upper leaf sinuses.—U-shaped.

Tooth at petiole sinus.—Present on left side only.

Density of prostrate hairs between veins on lower surface of blade.—Absent.

Density of erect hairs between veins on lower surface of blade.—Absent.

Density of prostrate hairs on main veins on lower surface of blade.—None or very sparse.

Density of erect hairs on main veins on lower surface of blade.—Sparse.

Density of prostrate hairs on main veins on upper surface of blade.—Very sparse — sparse.

Density of erect hairs on main veins on upper surface of blade.—None.

Autumn coloration of leaves.—Leaves can be a single color or combination of colors, in a mottled pattern or on the edges of the leaves; Greyed purple; N186A, and B, and 187A, and B, and Greyed-red 181A, and C.

Upper surface:

Color.—Can be any of the following colors; Yellow-green to Green; 147A, and 137A, and B, and 146A.

Anthocyanin coloration of main veins.—Absent to very weak.

Surface appearance.—Dull.
Blistering surface of blade.—Absent to Very weak.
Lower surface:
Color.—Can be any of the following colors; Yellow green; 147A, and 137A, and B, and 146A.
Anthocyanin coloration of main veins (lower surface).—Absent to very weak.
Glossiness.—Weak.
Surface texture.—Smooth.
Surface appearance.—Dull.
Petiole:
Length.—About 11.5 cm.
Length of petiole compared to middle vein.—Slightly shorter.
Density of prostrate hairs on petiole.—None.
Density of erect hairs on petiole.—Sparse.
Buds:
Bud fruitfulness.—Basal: Mostly fruitful.
Position of first fruitful shoot on previous season cane.—1st to 2nd node.
Time of bud burst.—Medium; Mar. 14, 2011.

FLOWERS

General:
Flower sex.—Hermaphrodite.
Length of first inflorescence.—Long; About 29.3 cm long by 6.4 cm wide.
Position of first flowering and fruiting node.—3rd.
Number of inflorescence per flowering shoot.—1.1 to 2.
Time of bloom.—Midseason as compared with similar varieties in the growing area of Delano, Calif.
Date of full bloom.—May 20, 2011.

FRUIT

General:
Ripening period.—Early to Midseason; Approximately; Jul. 30, 2011.
Use.—Fresh market.
Keeping quality.—Excellent.
Resistance to.—Insects: Average typical of *Vitis vinifera* species. Diseases: Average typical of *Vitis vinifera* species.
Refractometer test.—Solid-sugar: About 20.6 Brix.
Brix/acid.—About 44.8.
Titratable acidity.—About 0.46.
Juice pH.—About 4.12.
Cluster:
Mature cluster length (peduncle excluded).—About 26.1 cm.
Mature cluster width.—About 12.3 cm.
Mature cluster weight.—About 478 g.
Bunch density.—Medium.
Number of berries.—About 204.
Form.—Cylindrical.
Peduncle:
Lignification of peduncle.—Medium.
Length of peduncle.—Medium. Approximately 4.2 cm.
Berry:
Uniformity of size.—Slightly variable.
Single berry weight.—About 4.4 g natural.
Shape.—Oblong.
Seeds.—Absent.
Cross section.—Circular.
Berry dimensions.—Longitudinal axis: About 40.2 mm. Horizontal axis: About 13.5 mm.
Berry firmness.—Medium.
Particular flavor.—Neutral.
Bloom (cuticular wax).—Weak.
Berry separation from pedicel.—Difficult.
Skin color (without bloom).—Can be either of the following colors; Greyed-Purple 187A, and B.
Skin:
Thickness.—Medium.
Texture.—Tender.
Reticulation.—Absent.
Tenacity.—Tenacious to flesh.

What is claimed:

1. A new and distinct variety of grapevine as herein illustrated and described.

* * * * *

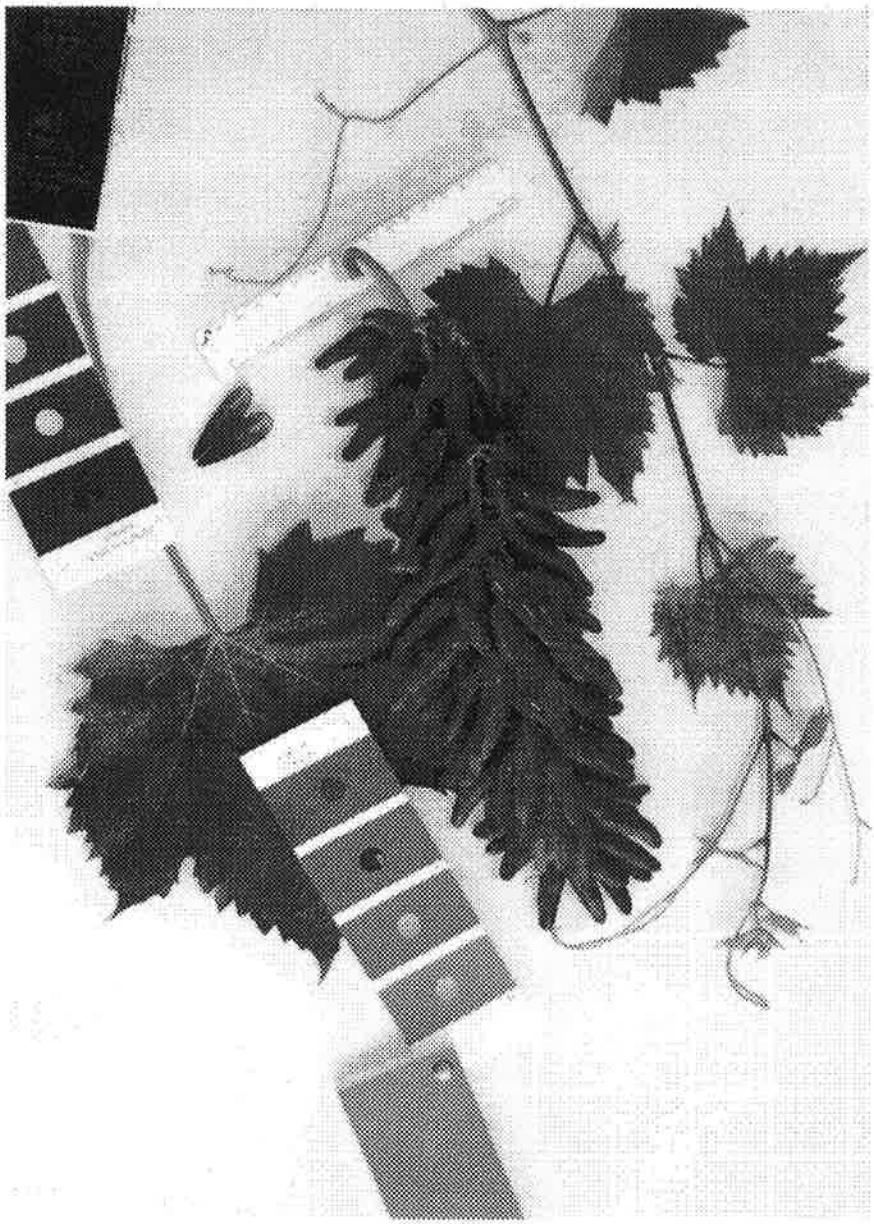

EXHIBIT C

(12) **United States Plant Patent**
Cain

(10) **Patent No.: US PP26,121 P3**
(45) **Date of Patent: Nov. 24, 2015**

(54) **GRAPEVINE 'IFG NINETEEN'**

(50) Latin Name: ***Vitis Interspecific* hybrid**
Varietal Denomination: **IFG Nineteen**

(71) Applicant: **David Cain**, Bakersfield, CA (US)

(72) Inventor: **David Cain**, Bakersfield, CA (US)

(73) Assignee: **INTERNATIONAL FRUIT GENETICS, LLC**, Bakersfield, CA (US)

(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 101 days.

(21) Appl. No.: **13/999,693**

(22) Filed: **Mar. 18, 2014**

(65) **Prior Publication Data**

US 2015/0271973 P1 Sep. 24, 2015

(51) **Int. Cl.**
A01H 5/00 (2006.01)

(52) **U.S. Cl.**
USPC **Plt./205**

(58) **Field of Classification Search**
USPC Plt./205
See application file for complete search history.

Primary Examiner — Annette Para

(57) **ABSTRACT**

This invention is a new and distinct grapevine variety denominated 'IFG Nineteen'. The new grapevine is characterized by producing naturally large seedless red berries having a broad ellipsoid shape with a unique strong fruity flavor having a combination of muscat and labrusca flavors.

1 Drawing Sheet

Latin name of the genus and species claimed: *Vitis Interspecific* hybrid.

Variety denomination: 'IFG Nineteen'.

BACKGROUND OF THE INVENTION

The new and distinct grapevine described and claimed herein originated from a hand pollinated cross of the Princess variety (USDA non-patented) and the A2798 (unnamed interspecific selection from the University of Arkansas) hybridized in May 2006. The abortive seed traces were subsequently embryo cultured and the resulting population of plants was planted in the field in April 2007. The present variety of grapevine was selected as a single plant in September 2008 and was first asexually propagated by hardwood cuttings in December 2008 near Delano, Kern County, Calif. The resulting propagules were planted during April 2009 near Delano, Kern County, Calif. and were found to reproduce true-to-type through at least two generations of asexual reproduction.

BRIEF SUMMARY OF THE INVENTION

The new grapevine 'IFG Nineteen' is characterized by producing naturally large seedless red berries having a broad ellipsoid shape with a unique strong fruity flavor having a combination of muscat and labrusca. Fruits normally ripen mid to late season about early to mid-September near Delano Calif. Fruits are fairly low in acidity, with medium dense firm texture, occasionally noticeable seed traces and are difficult to color in hot climatic conditions. Attachment of the berry to the pedicel is somewhat weak. Vines are very productive and can be pruned to short spurs. The new grapevine differs from its maternal parent the Princess variety by having light red rather than light green berries and by having a very strong fruity muscat and labrusca type flavor as opposed to the mild muscat flavor of the Princess variety. 'IFG Nineteen' can be distinguished from its pollen parent, A2798, by its light red color as opposed to black color, by having larger berry size and by having a combination of muscat and labrusca flavor rather than just a strong labrusca flavor of the A2798.

The interspecific nature of the vine is very evident. Vines are very vigorous with a more erect-horizontal growth habit and very large leaves as compared to typical seedless grapes of the *Vitis vinifera* species.

Grape breeders have used several native American grape species to improve hardiness, disease and insect resistance as well as incorporate aromatic flavors into the *vinifera* species. Previously introduced interspecific varieties have had very limited commercial success due to small fruit size, large seed traces, slipskin texture or lack of firmness. The new grapevine variety is being introduced because of its unique combination of muscat and labrusca flavor combined with firm texture, seedlessness, good adhesion of skin and flesh and naturally large berry size.

BRIEF DESCRIPTION OF THE FIGURE

The accompanying photographic illustration in FIG. 1 illustrates in full color 'IFG Nineteen'. The photograph was taken outdoors with indirect lighting. The colors are as nearly true as is reasonably possible in a color representation of this type.

DETAILED BOTANICAL DESCRIPTION OF THE INVENTION

Throughout this specification, color names beginning with a small letter signify that the name of that color, as used in common speech, is aptly descriptive. Color names beginning with a capital letter designate values based upon R.H.S. Colour Chart, published by The Royal Horticultural Society, London, England.

Throughout this specification subjective description values conform to those set forth by the International Plant Genetic Resources Institute publication 'Descriptors for Grape' (*vitis* spp.) (1983) which was developed in collaboration with the Office International de la Vigne et du Vin (OIV) and the International Union for the Protection of New Varieties of Plants (UPOV).

The descriptive matter which follows pertains to 'IFG Nineteen' plants grown in the vicinity of Delano, Kern County, Calif. during 2012, and is believed to apply to plants of the variety grown under similar conditions of soil and climate elsewhere:

Vine

General:
- *Size.*—Large.
- *Vigor.*—Very Vigorous.
- *Density of foliage.*—Dense.
- *Productivity.*—Very productive.
- *Root stock.*—Own root.
- *Training method.*—Typically spur pruned leaving 2 bud spurs.

Trunk:
- *Trunk diameter of 4-year-old vines at 30 cm above the soil line.*—4.6 cm.
- *Shape.*—Medium.
- *Straps.*—Short — split.
- *Surface texture.*—Medium to shaggy.
- *Inner bark color.*—Can be any of the following colors; 165 A and C.

Shoots

Young shoot:
- *Form of tip.*—Wide open.
- *Distribution of anthocyanin coloration of tip.*—Absent.
- *Intensity of anthocyanin coloration of tip.*—Absent.
- *Density of prostrate hairs of tip.*—Dense.
- *Density of erect hairs of tip.*—Absent.
- *Color.*—Yellow-green; can be any of the following colors; 144A, and 146B and C.

Woody shoot (mature canes):
- *Shape.*—Stocky.
- *Internode length.*—Medium; About 8.1 cm.
- *Width at node.*—About 0.9 cm.
- *Cross section.*—Elliptic.
- *Surface.*—Striate.
- *Main color.*—Can be any of the following colors; Greyed orange; 166 A and D.
- *Density of erect hairs of nodes.*—None.
- *Density of erect hairs on internodes.*—None.
- *Growth of axillary shoots.*—Weak, Approximately 7.4 cm.

Flowering shoot:
- *Vigor during flowering.*—Very strong.
- *Attitude during flowering on shoots not tied.*—Horizontal.
- *Color.*—Dorsal side of internodes — Green with Red stripes.
- *Color.*—Ventral side of internodes — Green.
- *Color.*—Dorsal side of nodes — Green with Red stripes.
- *Color.*—Ventral side of nodes — Mostly green but occasionally green with red stripes.
- *Density of prostrate hairs of nodes.*—Sparse.
- *Density of erect hairs of nodes.*—None.
- *Density of prostrate hairs on internode.*—Sparse.
- *Density of erect hairs on internode.*—None.
- *Anthocyanin coloration of buds.*—Absent.

Tendrils:
- *Distribution on the shoot (at full flowering).*—Discontinuous.
- *Length of tendril.*—Medium to Long; About 26 cm.
- *Thickness.*—Medium.
- *Color.*—Yellow-Green; can be any of the following colors; 146C, and N144A and B.
- *Form.*—Trifurcated.
- *Number of consecutive tendrils.*—2.

Leaves

Young leaves:
- *Color of upper surface of first four distal unfolded leaves.*—Green.
- *Average intensity of anthocyanin coloration of six distal leaves prior to flowering.*—Absent.
- *Density of prostrate hairs between veins (lower surface).*—Dense.
- *Density of prostrate hairs on veins (lower surface).*—Dense.
- *Density of erect hairs between veins (lower surface).*—Absent.
- *Density of erect hairs on veins (lower surface).*—Very sparse.

Mature leaves:
- *Average length.*—About 17.6 cm.
- *Average width.*—About 21.7 cm.
- *Mature leaf size.*—Large to Very large.
- *Shape of blade.*—Pentagonal.
- *Number of lobes.*—5.
- *Anthocyanin coloration of main veins on upper side of blade.*—Weak to Medium.
- *Mature leaf profile.*—Undulate.
- *Blistering surface of blade upper surface.*—Weak.
- *Leaf blade tip.*—In the plane of the leaf.
- *Undulation of margin.*—Medium.
- *Thickness.*—Thick.
- *Undulation of blade between main and lateral veins.*—Overall.
- *Shape of teeth.*—Mixture of both sides straight and both sides convex.
- *Length of teeth.*—Medium.
- *Ratio length/width of teeth.*—Medium.
- *Shape of upper lateral sinuses.*—Open.
- *Depth of upper lateral sinuses.*—Shallow.
- *General shape petiole sinus.*—Half open.
- *Shape of base of upper leaf sinuses.*—U-shaped.
- *Tooth at petiole sinus.*—Absent.
- *Density of prostrate hairs between veins on lower surface of blade.*—Medium.
- *Density if erect hairs between veins on lower surface of blade.*—Absent.
- *Density of prostrate hairs on main veins on lower surface of blade.*—Medium to Dense.
- *Density of erect hairs on main veins on lower surface of blade.*—Sparse.
- *Density of prostrate hairs on main veins on upper surface of blade.*—Sparse.
- *Density of erect hairs on main veins on upper surface of blade.*—None.
- *Autumn coloration of leaves.*—Leaves can be a single color or combination of colors, in a mottled pattern or on the edges of the leaves; Yellow; 11A and B and 12A, and Greyed Orange; 165A and B.

Upper surface:
- *Color.*—Can be any of the following colors; 137B and C, and 138A.
- *Anthocyanin coloration of main veins.*—Absent.

Surface appearance.—Semi-glossy.
Blistering surface of blade.—Medium.
Lower surface:
Color.—Can be any of the following colors; 138A and B and 137C.
Anthocyanin coloration of main veins (lower surface).—Absent.
Glossiness.—Weak.
Surface texture.—Smooth.
Surface appearance.—Dull.
Petiole:
Length.—About 16.7 cm.
Length of petiole compared to middle vein.—Slightly shorter.
Density of prostrate hairs on petiole.—None.
Density of erect hairs on petiole.—None.
Buds:
Bud fruitfulness.—Basal: Mostly fruitful.
Position of first fruitful shoot on previous season cane.—1st to 2nd node.
Time of bud burst.—Midseason; about Mar. 15, 2012.

Flowers

General:
Flower sex.—Hermaphrodite.
Length of first inflorescence.—Medium; About 17.2 cm long by 7.3 cm wide.
Position of first flowering and fruiting node.—3rd to 4th node (current season growth).
Number of inflorescence per flowering shoot.—1.1 to 2.
Time of bloom.—Midseason as compared with similar varieties in the growing area of Delano, Calif.
Date of full bloom.—May 14, 2012.

Fruit

General:
Ripening period.—Midseason to late season; Approximately Sep. 16, 2012.
Use.—Fresh market.
Keeping quality.—Good.
Resistance to.—Insects: Average—not especially resistant or susceptible. Diseases: Average — not especially resistant or susceptible.
Refractometer test.—Soluble solids: About 21.6 Brix.
Brix/acid.—About 55.4.
Titratable acidity.—About 0.39%.
Juice pH.—About 3.93.
Cluster:
Mature cluster length (peduncle excluded).—About 25.2 cm.
Mature cluster width.—About 17.2 cm.
Mature cluster weight.—About 1058 g.
Bunch density.—Medium.
Number of berries.—About 174.
Form.—Conical.
Peduncle:
Lignification of peduncle.—Weak.
Length of peduncle.—Medium. Approximately 3.4 cm.
Berry:
Uniformity of size.—Uniform.
Single berry weight.—About 7.5 g natural; to about 9.2 g when treated with gibberellic acid.
Shape.—Broad ellipsoid.
Seeds.—Seed traces occasionally noticeable.
Cross section.—Circular.
Berry dimensions.—Longitudinal axis: About 2.6 cm. horizontal axis: About 2.1 cm.
Berry firmness.—Medium firm.
Particular flavor.—Muscat combined with Labrusca.
Bloom (cuticular wax).—Medium.
Berry separation from pedicel.—Medium.
Skin color (without bloom).—Can be any of the following colors; Red-purple; 59 A and B.
Skin:
Thickness.—Medium.
Texture.—Medium tough.
Reticulation.—Absent.
Tenacity.—Tenacious to flesh.

What is claimed:

1. A new and distinct variety of grapevine as herein illustrated and described.

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