» PRUSA'S POINT

"Just as with the copyright violating piracy of music, software, movies or designer clothes and handbags, the illicit act of using a patented, improved, grass cultivar without paying the owner of the grass now falls into the common-language use of modern piracy."

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TURFGRASS PIRACY!

WHAT IS IT?
WHO DOES IT?
WHAT DOES IT?
WHAT DO WE DO ABOUT IT?

THE GENERAL SUBJECT OF 'PIRACY' HAS BEEN IN THE HEADLINES NOW FOR SOME RECENT YEARS. PROBLEMS WITH PIRATES HAVE OCCURRED THROUGHOUT HISTORY AND THE THREAT SEEMS TO EBB AND FLOW WITH THE TIDES OF TIME. NOW TODAY WE AGAIN FACE AN ONSLAUGHT OF PIRACY – IN COMMERCE ON LAND AS WELL AS ON THE HIGH SEAS.

From the notorious Somali modern pirates capturing shipping throughout the eastern waters of Africa the Indian Ocean and into the Arab seas, to the heated concerns over piracy of music and movies in the entertainment industry, piracy has again emerged as a serious problem. Certainly the re-activated issues of piracy have re-sprung to life due to the intensity of international, global trade that has expanded throughout the world over the last few decades. Historically piracy has been an issue whenever world trade has been in a growth mode throughout the centuries. While the Pirates of the Caribbean, with whom everyone is romantically familiar with, may once have been after gold, spices and preying upon political enemies, easy money, greed and politics still remain the fundamental motivators of the wide variety of piracy activities in the world today. And pirates today do not only ply their trade with ships at sea, but also sail the Internet of cyberspace, roam the libraries of knowledge and steal even the means of agriculture livelihood. Piracy impacts each of us.

While originally coined from the Latin word of piratia, referring to an act of robbery on the high seas, most essentially modern piracy is theft through a wide variety of illicit means and methods and has now come to be viewed in common language to include the act of stealing another's means of production or the intellectual property of concepts, creations, name brands, personal name, design or inventions. With the explosion of technological advancement and science, even agriculture is subject to this crime.

Many facets of the golf business, including the aspect of the business of turfgrass production, are not immune to modern-day piracy. Just as with the copyright violating piracy of music, software, movies or designer clothes and handbags, the illicit act of using a patented, improved, grass cultivar without paying the owner of the grass now falls into the common-language use of modern piracy.

Using an improved, modern grass cultivar without legitimately paying the owner for it is not the only piracy problem that is faced in the turfgrass industry. It is not unknown of for a golf course to buy a grass that they thought was an improved cultivar, but then too late find out it was only a grass being called and using a name-brand of an improved cultivar! This can and does happen in the USA and around the world as well. It is also a growing concern in Asia to the degree that it is creating great impediments to getting the new grasses to where we need them in Asia. Piracy always impedes the conduct of legitimate commerce – a common manifestation and result of why navies in the past have been sent to eliminate pirates at sea!

HOW DID THIS PROBLEM COME ABOUT EVEN OUTSIDE THE UNITED STATES?

Generally, the world's improved grass varieties for warm season and cool season grasses have been primarily developed and maintained in the United States. There are many reasons for this including that the United States has had:

- The greatest funding resources
- The intellectual resources command in the relatively new field of turfgrass science.
- Over fifty (50) land-grant universities established specifically for agricultural development (The land-grant system were special universities established by federal legislation in 1862 in order to focus on advancing engineering, agriculture and science in addition to liberal arts, as a response to the Industrial Revolution).
- In 1887 and 1914 respectively, a system of Agricultural Experimental Stations and the Agricultural Cooperative Extension system were established as additional resources under the directions of the land grant universities.
- A high market demand due to the largest concentration of golf courses and highest demand for professional athletic turf.
- The widest variety of climatic growing conditions.
- Ideal, large regions for both seed production and for vegetative production.
- Cooperative support resources from the United States Department of Agriculture (USDA) and from the United States Golf Association (USGA) to many of the land-grant universities.
- All of these factors resulted in the expansion of new, commercial turfgrasses.

Thus significant advances in scientific breeding and development of new turfgrasses leapt forward in the latter half of the 20th Century primarily in the USA where the greatest depository of newly developed, modern-designer grasses are now deposited. These new grasses were designed, produced, patented and protected and then they proved to be in great demand in the market places of the world. As the reputation for the high quality features and benefits of these grasses spread, the demand increased for them by 'brand names.' In some cases, unsuspecting buyers and end-users purchased what they thought were some of these early available, new grasses only to find out later that they had been duped – knowingly or unknowingly.

In other cases unscrupulous individuals would take brand-named, vegetatively-propagated hybrids of improved grasses and carry small quantities overseas in suitcases to provide to desperate users. Most often these contraband exports were contaminated with or were some completely other grass than the high-quality brand that it was purported to be. Today many courses in Australia and Asia think they have a golf course planted with a name-brand turfgrass, but they come to find out through genetic testing (now commonly available) that it is something completely different genetically. And these phony grasses fail miserably. This is but one aspect of the damage that results to end-users from pirated grasses world-wide.

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FAILED GRASSES – REALLY?

Another downside of pirating of phony grasses is the pirate-providers use of high-quality brand names and the damage that results to the reputation of the actual improved grasses. When an unsuspecting end user finds that one of these pirated-in-name-only grasses is not performing as it has been expected to, great damage is then caused to the reputation of the true, high-quality brand. This in effect is a second level theft that occurs from the same, singular felonious act – destroying the reputation of the true grass brand.

WHAT DOES IT HURT IF SOME PEOPLE PIRATE TURFGRASSES?

The pirating of improved grass varieties can include (1) the actual theft of an improved, patented grass, (2) the selling of a phony substitute or contaminated grass as an improved, patented grass, (3) and the damage to reputation caused by turfgrass quality failures of the phony grasses sold under the improved grasses names. It hurts everyone in the golf business today. Certainly it has severely reduced the availability of securing many new grasses for development in Asia and elsewhere in the world. It has definitely impeded and fully stopped the availability of a large number of the improved warm-season grasses – and not only warm season grasses for Southeast Asia, but also many that are specifically designed for the transition zone of Asia as well.

THE TRANSITION ZONE NEEDS GRASS OPTIONS IN ASIA TOO

After the World War concluded in 1945 much focus was brought to identify grasses that would perform better in the large region of the United States between the cold northern states and the warm southern climes. General agreement came about that the golf course industry needed to develop new grasses that would use less water and require less maintenance expense, all while staying green longer and providing for improved playing surfaces.

By the 1970s the increased emphasis on lessening environmental impacts placed even greater support on the need for developing improved grasses and it was determined that the transition zone region was the key test. By 1980 the leadership of the turfgrass portion of

the golf industry had set out to secure needed funding to develop cool season grasses that were more heat tolerant, and warm season grasses that were more cold tolerant – all aimed at the transition zone. The major golf organizations (such as the USGA and GCSAA), land grant agricultural experiment university system, the United States Department of Agriculture (USDA) and the turfgrass industry came together with a common goal. Funds were provided to send young turfgrass scientists on a quest to find and bank samples of grass material from around the world. Asia was a key focus in this quest as it was viewed as having excellent, well adapted grasses that could be used as parent material to develop improved warm season grasses.

In but one thrust in the combined research efforts focused on breeding, Dr. Jack Murray and Dr. Milt Engelke collected samples from Asia, including Zoysia from Japan and Korea. Murray and Engelke built on earlier pioneering efforts that went back as far as the 1890s – their goal was to collect Asian, warm season germplasm in order to provide new, improved grasses that are only just today coming fully available in the United States. Yes, it takes plant breeders many decades from start to finish in order to 'create' even a single new grass to market. Thirty (30) years is not unusual. It is a slow and tedious task and has many dead-ends along the way from grasses that appear promising at first, only to fail after a test period of time. In most cases talented scientists dedicate their entire career efforts and intellectual talents. They take great risks of failure in these efforts – and put their careers on the line. So, due to the efforts of a generation of dedicated people, after thirty-plus years of project efforts there are now today improved grasses emerging from the pipeline into which was originally pumped parent warm season grass germplasm that was selected from Asia.

Yet, after dedicated countless years of team work, the threat of piracy now stems the ability of the breeders and distributors from marketing new warm season, transition zone grasses to the Asian markets where we badly need them and from whence the parent material originated. From Japan to Korea and into China, how many golf course owners would prefer to be able to use modern grasses developed from native Asian grasses? Grasses that can green up early, stay green longer and are breeder designed for the fine turf needs of golf courses in Asia.

THE RIGHT TO BE COMPENSATED

Sadly, it seems, the threat of piracy as described above, is causing delay in getting the new grasses available for sale in Asia. Surely the breeders and those who invested funding support in the projects are all legally and morally entitled to royalties when these grasses are sold commercially. Pirates do not have the right to steal or damage the rewards of those who invested their time, talent (intellect) and treasure (funds) into creating improved grasses that we all can use to our own benefit and improved profits. And there were many who invested.

Of course, the issue as related to new turfgrass is but one dimension of the impact of the felonious piracy that takes place in the golf business today. It is clearly time for the golf course industry in Asia and globally to come together and address the problems. It is time for the industry to pull together an effective coalition of all those impacted from breeders, designers, builders, owners, practitioners as well as investors

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such as the land-grant universities, the USGA and the USDA and invite in the related ministries of national governments. We need to pull all of those across the range of the golf business who are damaged by piracy into an alliance to combat it.

To be effective we need to consider the following steps:

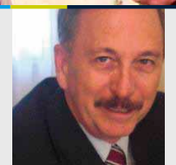
1. Chart out a plan that addresses the issues of piracy in all its surreptitious activities.
2. Inform and educate everyone involved in the system from production through distribution to end users. Our greatest defense in combating piracy in the golf business are course management practitioners, owners and, yes, golfers who can often be well placed.
3. Reach out to form cooperation within the golf industry and with other industries involved in similar piracy issues of products and intellectual services.
4. Inform and educate governmental ministries to gain immediate legal assurances and enforcement of protections internationally.
5. Establish and develop a legal fund to support and assist in investigation, information and both civil and criminal prosecution in cooperation with national ministries -- not to be able to take on all, but to hang a few coyotes on the fence as examples to scare off the pack. Publicize these efforts and lists of any names of offending end users and golf courses – in Asia such loss of 'face' would be worse than judicial punishment and few people would knowingly buy or use pirated grasses.
6. Widely promote a self-policing effort within the golf course industry in Asia and everywhere.

Dealing with piracy issues in the golf course business is not only an issue of theft of profit. Many of those who were involved with the funding efforts in the 1970s and 1980s gave countless volunteer time and even contributed their own monies to help efforts such as the GCSAA's and USGA's research programs.

Individuals and groups such as golf course superintendents and regional golf associations collected personal donations and contributed those funds to support the turfgrass breeding efforts of every breeding project in the United States! I know this first-hand, because I traveled and met with these groups to ask for their help and contributions. Many contributed talents (intellectual) and energy toward helping to support the turfgrass breeders and universities in developing modern grasses.

There were hundreds of people who also selflessly invested in this manner of their own time, talent and treasure. I, for one, was honored to have served with them – they too are being ripped off and mocked when turfgrass piracy occurs anywhere. None of us donated resources so that some pirate could freely steal the rewards and gain unearned profit.

Dr. Milt Engelke ***(pictured right).***



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THE CALL IS NOW GOING OUT TO THE GOLF COURSE INDUSTRY TO AGAIN COME TOGETHER, AND AS WE ALWAYS HAVE DONE SO, TO EFFECTIVELY DEAL WITH A NEW THREAT – THE PIRACY OF PROPERTY RIGHTS IN GOLF. HOIST THE SAILS AND LET'S PREPARE TO CUT OFF THEIR JIBS! PIRACY AND PIRATES BEWARE.