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Creating a Better Bee: Sociohistorical Approach of the Buckfast bees'

Elsa Faugère, INRAE, UMR Innovation and Dorothée Dussy, CNRS, Centre Norbert Elias

Introduction

When we first became interested in bees and the beekeeping worlds in 2016, and in establishing social science research projects on these themes, we believed at the time that these worlds and their disappearance, trumpeted in the media and in numerous scientific publications, represented major social, political, environmental and economic challenges. Referred to by biologists as Colony Collapse Disorder, to us, the disappearance of the honey bee seemed not only a catastrophe to be avoided but also a good topic for consideration from an anthropological point of view which might, we also thought, help to mitigate this phenomenon. Considered a guardian of the environment and biodiversity, by the media and the public opinion, the disappearance of the honey bee seemed to provide an interesting angle from which to describe, analyse and understand the relationship between nature and cultivation and scientific and 'profane' knowledge in our contemporary worlds in the face of numerous environmental crises.

Over the course of the field surveys that we carried out with a hundred or so professional beekeepers in three French regions (Provence, Aquitaine, Centre) and scientists and engineers specialising in bees, as part of three multi-disciplinary research projects, financed with European and national funding, we have gained an understanding of the gap between this popular image of a bee standing guard over biodiversity and the realities of beekeeping. Because it must be remembered that the honey bee is an insect that has been selected, raised, fed, cared for, and marketed, inter alia. In summary, a *breeding and farming animal* whose reproduction, birth and death, genetics and nutrition is controlled by the beekeeper (or at least, controlled as much as possible, as in any other breeding operation).

If our collective and dominant representation of nature is of a *wild* and un-domesticated nature that needs protecting and preserving, it is quite paradoxical to hold up an animal of this kind as an emblem of a biodiversity under threat. But if our collective and dominant representation of nature is of a nature anthropomorphised and transformed by human activity, then the honey bee comprises an excellent summary of this intertwining of nature and cultivation. The tale of the creation, over the course of the 20th century, of an improved bee, the *Buckfast bee*, illustrates how this intertwining works.

It also shows that this story belongs to the Holocene era rather than the Anthropocene, as Anna Tsing (2022) would put it. This means that beekeepers, who have remained masters in control of the selection and development of their livestock, unhampered by state control, have been able to reconcile profitability and sustainability.

In this article, we will first of all take a look at the background against which the first Buckfast bee was created, in 1919. We will then take a closer look at the selection process which led to the creation of the Buckfast bee. In a third section, we will see how the Buckfast strain also became a registered trademark. And finally, we will talk about the heirs to Brother Adam.

1. The creation of a strain, the first Buckfast: It x Na (1919)

The Buckfast bee was created by a monk, Brother Adam – born Karl Kehrle in Germany in 1898, he died in 1996 in England. This is how the Alsace beekeeper Raymond Zimmer, one of his close collaborators, remembers the story of the creation of this bee in a work that he first published in French in 1985, and which was later translated and published in German and in Dutch in 1987 and 1991:

"The Buckfast strain was created by Brother Adam, 80 years ago [in 1919], at Buckfast Monastery in Devon, in Southwest England. This creation was not the result of any particularly elaborate genetic programme, but of a harsh reality of beekeeping. This is because Isle of Wight disease, i.e., acariosis, had completely wiped out the dark bee in England at the beginning of the 20th century. In 1917, Brother Adam, freshly promoted to be responsible for the monastery's apiary, therefore faced an unprecedented beekeeping disaster from the very start. No one was aware at the time of the origins of the disease, which had also reduced the monastery's apiary to a very few hives. However one thing quickly became clear: all of the surviving hives were home to a foreign queen or a direct descendant thereof. The Italian strain of the time, a leathery yellow in colour, known as the Ligurian bee, was particularly noted for its resistance to this mysterious epidemic. It had been imported to the monastery's apiary just before the onset of the epidemic.

To be honest, Brother Adam was an unwitting assistant to a merciless process of natural selection which would in a few short years utterly exterminate the English dark bee, a relative of the French dark bee. As total as it was radical, this rapid disappearance of an excellent local strain, perfectly adapted to its biotope, led Brother Adam to question the old principle that a local bee was best equipped to face up to the challenges of its environment!

In the surviving hives, an Italian queen, fertilised by English dark male bees, became noted for her exceptional foraging skills, and her resistance to acariosis. This was the stock from which the Buckfast strain would eventually emerge¹. This summarises the origins of this bee, which Brother Adam explained in detail in his three books: *In Search of the Best Strains of Bees: And the Results of the Evaluations of the Crosses and Races*, *Meine Betriebsweise (My Modus Operandi)*; *Les Croisements et l'Apiculture de Demain (Cross-breeding and the Apiculture of Tomorrow)* ((*Abeille de France, Editions SNA, Paris*). (Zimmer 1999).

At the time, scientists and beekeepers, including Brother Adam himself, believed *pure-bred* bees to be superior to their cross-bred counterparts. But this belief was swept away by observing the hives at Buckfast abbey, where only the colonies whose queens had been cross-bred with *foreign strains* survived the acariosis epidemic, as Raymond Zimmer recounts in the extract above.

As well as being a fine observer of bee colonies, Brother Adam was also very familiar with the scientific literature of the era, and notably genetics and the theories on the laws of heredity

¹ Our emphasis.

discovered by Gregor Mendel (1822-1884), a fellow monk. In his writings, Brother Adam explains that the scientist who inspired him the most and left the greatest impression on him was the German teacher Ludwig Armbruster, who was the first scientist to apply Mendel's theories on the laws of heredity to the heredity of the Western honey bee (*Apis mellifera*). Brother Adam considered Professor Armbruster "one of the leading lights in beekeeping science worldwide" (Adam [1966]). You have to remember that Brother Adam was German. In his work published in 1919, "The Science of Apiculture" (*Bienenzuchtungskunde*), Armbruster took an interest in genetic heredity in honey bees and its practical application in apiculture.

"In this book by Armbruster", wrote Brother Adam, "I found the key to the development of our strain. Plenty of confused ideas were circulating at the time on the subject, in the midst of which Armbruster's hypotheses shone like a light which showed me the most direct path to the goal that I had set myself. We both believe that the essential thing is the development of a variety [of bee] which can provide the *maximum yield for the minimum amount of work by man*. He affirms – as do I – that such a goal can only be achieved with cross-breeding, making it possible to bringing together the greatest possible number of qualities from the different breeds in a single line. It is in this sense that Man must intervene judiciously to achieve what nature cannot" (Adam, [1966] 2015: 37).

For Brother Adam, although nature certainly did a primary and important job of selecting bees, its aim was not to create a bee that was the most profitable possible or the most productive in terms of honey or other beehive products (Candille, 2018). The aim of natural selection is the reproduction of the species, while that of any beekeeper seeking to live off his work is its profitability and hence the search for a maximum honey yield (Adam, [1966]), the principal purpose of breeding for Brother Adam. The search for a *better bee* is clearly that for a *commercial bee*, as he himself refers to it, or in another words, a *production animal*, to use the expression favoured by ethnologist Patricia Pelligrini (2004) to qualify the process of the modernisation of cattle breeding in France from the 1950's onward.

As Mathilde Candille (2018: 42) recounted in her master's thesis: "Brother Adam was looking for the best strains and he attached enormous importance to the fact of going to find the strain queens in their country of origin. As he saw it, these indigenous bees were moulded by nature over thousands of years". And this is why, in order to select what he referred to as "the best starting strain that we will need for our cross-breeding" (Adam, [1966] 2015: 21), he undertook to travel for almost 30 years, from 1950 onwards, across all of Eastern and Western Europe, to the Middle East and Northern Africa, "to the remotest of lands, where it has been possible to maintain the purity of a strain across the ages" (Adam [1966]). From these journeys, he would bring back to the hives at Buckfast Abbey and to the breeding station on Dartmoor, a place sufficiently isolated to be able to control the breeding process, the strains of all of the breeds of bee that he had come across, and from which he would carry out his hybridisations, cross-breeding, trials and experiments with the aim of creating and then above all of stabilising a strain of bee with previously selected characteristics to create the *perfect bee*, to paraphrase Bernadette Lizet on the subject of horses (1985).

During his travels, Brother Adam relied on an international network of scientists specialising in genetics and bees, the progress of whose work he was perfectly familiar with, as his writings ([1978] and [1966]) indicate: "We were well aware that visiting the continental research institutions and establishing a direct connection with the best foreign scholars would help us immensely in our task" (Adam [1966]).

2. The work of selection

Although Brother Adam would work his entire life to create, improve and stabilise a new commercial and profitable bee, from 1922 onwards, inserts in the *British Bee Journal*, the benchmark English-language beekeeping magazine, offered *Buckfast Bees* or *Buckfast Queens* for sale (see Figure 1). This is an important detail. It means that the appellations "Buckfast bee" and "Buckfast queen" long pre-dated the decades of selection, crossbreeding and combination that Brother Adam would continue into the 1980's. However, in biological terms, one can but wonder what a Buckfast bee of 1922 had in common with its 1981 counterpart, which Brother Adam asked one of his closest collaborators, Raymond Zimmer, a French beekeeper, to register as a trademark with the INPI, the French National Industrial Property Institute, in order to protect the fruits of his work. Finally, one might also ask if Brother Adam has created a new *strain* (or *variety*) or, rather, a new *brand* – a commercial one – of bee?

totalled 169,920 lbs., valued at £4,805, of which 151,389 lbs., worth £4,300, went to the United Kingdom. In South Australia the larger apiaries, consisting of from 500 to 800 colonies, are established in places where settlement has not been followed by the destruction of the native timber.

The climate is excellent for bee life, only about three months of the year in the depth of winter being unfavourable; but even during this period bees are to be found on sunny days working among the flowers. In the River Murray districts, too, honey is gathered all the year round when the winter, as is generally the case, is not severe. The main source is the native flora of the eucalypti family. The red and blue gums are prolific producers of nectar, which yields a honey of fine flavour and consistency, but many other plants, indigenous and introduced, contribute their quota to the general supply.—From the *Financier & Bullionist*.

Owing to the inclusion of the Title and Index for 1921, several articles in type, including Jottings from Huntingdonshire, are unavoidably held over till next week.—Eds.

Trade Catalogue Received.

Mr. E. J. Burt, Stroud Road, Gloucester, has sent us a very comprehensive classified list of books and magazines for bee-keepers, both English and foreign. It will be sent on receipt of a postcard.

Special Prepaid Advertisements. One Penny per Word.

PRIVATE ADVERTISEMENTS.

21 CWT. good quality English Honey, granulated, in 56-lb. tins, £5 10s. per cwt., carriage and tins free; sample 6d.—**F. CLARKE**, Southrop, near Lechlade, Glos. a.2

FIVE 28-lb. tins of best quality Granulated Honey. Offers invited.—**HAWKEN**, Polkerris, Par Station, Cornwall. a.4

PURE LINCOLNSHIRE HONEY, 28-lb. tins, £7 per cwt., carriage paid; sample 4d.—**THOMPSON**, Helpringham, Sleaford. a.5

FOR BEGINNERS.—Complete Outfit, excellent condition, £2 2s.; three Overton's double-walled Hives, lift, super, thrice painted, sacrifice, £1 1s. each.—**EDGEWORTH**, Woolwich Road, Belvedere. a.17

WANTED, one or more Wells' or other Multi-queen Hives.—**PACKINGTON**, 2, Moorgate Terrace, Rotherham. r.w.79

COMPLETE MODERN APIARY FOR SALE, consisting of 40 strong Italian Stocks (1921 Queens), in nearly new 13-frame Hives, zinc-covered roofs, each hive fitted with excluder and two supers; 4-frame Extractor, Ripener, Feeders, etc.; carriage paid in Great Britain; April delivery; £300, or near offer.—Box 48, B.B.J. Office, 23, Bedford Street, Strand, W.C.2. w.11

BUSINESS ADVERTISEMENTS. 1½d. per word.

CARNIOLANS.—Buy British-bred Queens, and have less trouble with supersedure. List.—**SWAFFIELD**, Libertus Villas, Cheltenham. r.a.3

BUCKFAST QUEENS are the very best. Our 1922 Circular will shortly be ready.—(REV.) **BROTHER ADAM**, Buckfast Abbey, Buckfast, S. Devon. a.6

THE NEW FIRM.

SPECIALITIES:

1. The Improved Convertible UNITIVE for Standard and/or Commercial Frames.
2. The "CLYDE" BEE-HIVE, single walled, reduced top-bars.
3. The "B" FLOOR-STAND, providing automatic ventilation, compact loading of hives, quick confinement of bees, and facilities for treating "I.O.W." Standard with both 1 and 2.
4. COMBINATION Float or Bottle Feeder, "Isle of Wight" Disease Treatment Box, Winter Passage, and Spring Inspection APPLIANCE.
5. Double-purpose Section/Extracting Frames and Racks.

Modest advertising, and the co-operation of progressive bee-keepers to keep down overhead expenses, ensure reasonable prices.

Literature, 4d. stamps.

JAMES B. BALLANTYNE,
HAZELBANK, LANARK.

a.1

9D. PER 1 LB. CANDY.—4 lbs., 4s. 6d.; 10 lbs., 9s. 9d.; post free; larger orders 9d. f.o.r.—**COBB**, 33, Bevan Road, Plumstead. a.18

BENHALL BEES.—A limited number of really good 3-frame Nuclei, headed by purely-mated 1922 Italian Queens, during May £2 10s. Cash with order.—**RIVIS & GRAY**, Benhall, Saxmundham. r.a.7

FAMOUS COTSWOLD QUEENS, bred from highest yielders, certain to please. Book your supply forthwith. Circular free.—**BOWEN**, The Queen Breeder, Cheltenham. a.8

THE finest bee insurance is Bowen's Incomparable Candy, 7 lbs. 8s., 10 lbs. 11s. a.9

HOME INDUSTRY.—Prepare your frames on Bowen's Wiring Board; saves hours; price 7s. 3d.; outfit, 13s. 6d.—**BOWEN**. a.10

PURE CARNIOLAN BEES.—Stocks and Nuclei at cheapest rates. Book now. Particulars, stamp.—**DANIELS**, Pantycrwyys, Rhydcwmerau, Llandilo. a.11

WONDERFUL CARNIOLANS AT PRE-WAR PRICES.—1922 Queens, bred from the only Carniolan stock selected for more than 20 years past with great care in ensuring the best possible honey results.—**SIMMINS**, Queenland, Heathfield, Sussex. r.a.12

NEW HARDY YELLOW VARIETY.—No loafers hottest days. Gathered honey 1921 after all others had retired from business.—Particulars, S. **SIMMINS**, Queenland, Heathfield, Sussex. r.a.13

THE WELSH BEE GARDENS, Ashgrove, Brecon (Proprietor, Lt.-Colonel Weaver Price).—Now booking Stocks and Nuclei. Highest grade Italians. r.a.15

For best bees, queens and appliances come to **PEARSON & GALE**, Marlborough.

Figure 1. Buckfast bees for sale in the British Bee Journal in 1922 (at the top of the right-hand column)

Although these bees, both called Buckfast, differ in numerous aspects, they nonetheless came from a common stock, the point of departure for what would become the Buckfast strain, as Raymond Zimmer recounted above (page 3): the Italian queen impregnated by English dark male bees, remarkable for her exceptional foraging qualities, and her resistance to acariosis.

Brother Adam brought back many further strains to this common stock from his numerous journeys, and created a selection method: "The selection work of Brother Adam, continued over several decades, led him to create a *synthetic strain* of bees. This working method can be summed up as selection through cross-breeding and genealogical monitoring. Brother Adam travelled across Europe [the Middle East and Northern Africa] to identify favourable characteristics within local bee populations and integrated these in successive cross-breeding, to create a new strain of bee" (Philippe Gaudet 2017: 310). The favourable characteristics sought after by Brother Adam and observed in the colonies that he visited were the same as for most beekeepers: honey production, resistance to illness, docility, swarming impulse, frame behaviour, etc.

Brother Adam's selection method is both simple and effective, but costly in terms of work and observation. This is because several years would be needed for the new Buckfast to stabilise. Here is how Raymond Zimmer explains this method of selection through cross-breeding and combination:

"Let's build on what Brother Adam did:

- In 1917, an Italian queen (**It**) was cross-bred **x** (with) the last bumblebees (i.e., the males) of the English dark strain (**Na**). We can abbreviate this as follows: "**It x Na**". A stringent selection process then took place which, between 1917 and 1929, filtered out and fixed certain characteristics of this ultimate cross "**It x Na**". After twelve years, so in 1929, it was considered to be stable. By convention, we therefore write it like this: "**It. Na**" (1929);
- In 1930, the French dark bee (**Nf.**) was crossed with the *Buckfast bee of the time*: "**It. Na.**" **x Nf.** After stabilisation: "**It. Na. Nf.**" (1939);
- In 1952 the Greek bee (**Gr.**) was crossed with the *Buckfast bee of the time*: "**It. Na. Nf.**" **x Gr.** After stabilisation: "**It. Na. Nf. Gr.**" (1959);
- In 1955 the Anatolian honey bee (**An.**) was crossed with the *Buckfast bee of the time*: "**It. Na. Nf. Gr.**" **x An.** After stabilisation: "**It. Na. Nf. Gr. An.**" (1961);
- In 1967, the Egyptian honey bee (**Eg.**) was crossed with the *Buckfast bee of the time*: "**It. Na. Nf. Gr. An.**" **x Eg.** After stabilisation: "**It. Na. Nf. Gr. An. Eg.**" (1974).

For clarity purposes, we have only mentioned the incorporation of certain strains. All of those mentioned "enriched" the Buckfast strain" (Zimmer 1999: 75).

Raymond Zimmer continues his explanation using the example of the introduction of the French dark bee strain in 1930 into the original Buckfast strain: "We have already seen that

the Buckfast strain originates from cross-breeding between an Italian queen and English dark males. In 1930, Brother Adam purchased one hundred and fifty dark bee hives in France. In addition, he obtained, from a great French professional beekeeper from the Gâtinais, some of his best queens, of course dark bees, and he discovered several queens with noteworthy qualities, which did not yet exist in his own stock. He then crossed these dark French queens with his Buckfast stock. By 1939, after patiently selecting and recombining his own stock, this (or these) line(s) was/were perfectly stabilised. It was superior in every way to the old strain, and took over as the "standard" Buckfast, (Zimmer 1999: 76) or the *Buckfast of the time*, as he refers to it above.

This expression, "*Buckfast of the time*", deserves a closer look. It means that what the Buckfast bee is has in fact changed a lot over the course of the 20th century due to this work of selecting, cross-breeding and combining by Brother Adam and the breeding and growing beekeepers with whom he collaborated in various European countries, including France. The Buckfast of 1922 that was on sale in the classified ads in the *British Bee Journal* above had not yet been crossed with the French dark bee, or with its Greek, Anatolian or Egyptian counterparts. But yet it is *also* a Buckfast bee. They are all Buckfast bees, but from different periods. They have the same name because they come from common stock and selection, cross-breeding and combination methods developed by Brother Adam, but they involve different *genetic realities*.

This raises questions about the concept of *strains*. For many beekeepers, the Buckfast is neither a strain nor a variety of bee, the equivalent of others such as the carnica, the carniolian or dark bee. They consider it, sometimes with a certain degree of disdain, as a hybrid bee, artificially created by Man. For Raymond Zimmer, this is a fruitless discussion. The way he sees it, over the course of the 20th century, Brother Adam created a new strain of bee, the Buckfast. Its genetic composition has changed since 1919 and the original stock (**It. Na.**) thanks to Brother Adam's patient selection, cross-breeding and combination work in the hives at Buckfast and on his travels. But each new Buckfast, which Zimmer refers to as the "buckfast of the time", stabilises, after seven years of work by Brother Adam. This is what has led Raymond Zimmer – and Brother Adam himself thought the same – to consider that this was in fact the creation of a new strain of bee. "Although the concept [of strain] is subject to multiple meanings (Pellegrini, 1999), a strain is generally defined as a collection of animals which possess a certain number of common characteristics and which can transmit these to their descendants" (Selmi and al. 2014). And that is exactly what Brother Adam succeeded in doing with the Buckfast.

3. The Buckfast, a commercial brand

But he also made it a trademark when he asked his close collaborator beekeeper Raymond Zimmer to register the Buckfast name with the French National Industrial Property Institute (INPI) in 1981. At the time, Brother Adam's aim was to protect "this *creation*², not for

² Our emphasis.

commercial purposes, but for ethical and technical reasons. He in fact feared that bees were being sold under the Buckfast name that had nothing to do, from a genetic point of view, with the strain that he had *created*³. He then asked Mr. Zimmer, a beekeeper in Alsace with whom he had worked for years, to provide this protection. Mr. Zimmer did this by registering the Buckfast brand in France, with the INPI, on 8 April 1981. He renewed this on 5 April 1991 before transferring the trademark in December 1994 to Mr. Dominique Froux, a beekeeper in the department of Vienne, and this transfer was registered on 11 May 1995 and renewed on 5 October 2000 and 25 March 2011, each time for a ten-year period. In 2014, Mr. Froux ceased trading and transferred the "Buckfast" trademark to S.A.S Buckfast France, represented by Mr. Dominique Thomine" (Gaudet 2017: 310)⁴.

Over a period of almost fifteen years, the successive owners of the Buckfast® trademark, all of them beekeepers and breeders of queens, sought to prohibit other beekeepers and breeders of queens from using the terms Buckfast or Buck for the queens and swarms that they offered for sale, even prosecuting them for trademark infringement, as shown in Letter no. 1 below, written by Mr. Thomine to a beekeeper, and posted by Mathieu Angot in his blog (<https://www.mathieua.fr/buckfast-marque.html>).

According to Mathieu Angot: "Along with these ongoing legal rulings, **quiet pressure is being exerted on beekeepers breeding "Buckfast" queens**. When an advertisement including the term "*Buckfast*" appears, it is only a matter of days, sometimes a few hours, before the advertiser receives an e-mail reminding them that use of the term is prohibited, and of the legal risks involved (*see Letter 1 below*). This phenomenon brought about a reaction from the National Union of French Beekeepers (UNAF, one of the main beekeeping unions), who sent out an update on this topic last November, and affirming that, pending forthcoming court rulings, beekeepers should have the right to use the term to refer to their production. Finally, the latest response to date is from a lawyer for Messrs. Thomine and Froux, reviewing the history of the issue, and issuing a reminder that to date, the use of the term Buckfast is still not authorised" (*see Letter 2 below*).

³ Our emphasis.

⁴ On this, see also the blog by beekeeper Mathieu Angot: <https://www.mathieua.fr/buckfast-marque.html>



Thomine Dominique
Escoutay
L'Escoutay
45170 St Germain des Prés

mercredi 10 décembre 2014

Monsieur,

La marque déposée BUCKFAST® est la propriété de Mme THIRY Marie-France-Le rucher de l'Escoutay et de Monsieur THOMINE Dominique-Le rucher de la Brie via la S.A.S. BUCKFAST® FRANCE depuis le 13 Aout 2014.

Cette marque est déposée à L'INSTITUT NATIONAL DE LA PROPRIETE INDUSTRIELLE sous le n° 1654803

Vous utilisez cette marque sur vos publicités, site internet, blog ou via le portail apicole www.apiculture.fr.

Nous considérons que cette utilisation abusive des termes BUCKFAST, BUCK ...sont des contrefaçons de la marque BUCKFAST®.

L'utilisation en France de la marque BUCKFAST®, par un tiers, sans autorisation , fait encourir les peines prévues à l'article L 716-9 du code de la propriété intellectuelle

Nous vous demandons de cesser immédiatement l'utilisation de notre marque , et de faire disparaître de vos publicités, sites internet , blog , etc. etc les termes BUCKFAST , BUCK**et ce sans délais.**

Recevez, Monsieur, nos salutations.

THOMINE Dominique

Wednesday, 10 December 2014

Dear Sir,

The BUCKFAST® trademark is owned by Mrs. THIRY Marie-France-Le rucher de l'Escoutay and Mr. THOMINE Dominique-Le rucher de la Brie via SAS BUCKFAST® FRANCE 13 August 2014.

This trademark is registered with the NATIONAL INSTITUTE FOR INDUSTRIAL PROPERTY, under number 1654803.

You are using this trademark in your advertising, on your website, blog or via the apiculture portal XXX.

We believe that this abusive use of the terms or BUCKFAST, BUCK, etc. comprises infringements of the BUCKFAST® trademark.

The unauthorised use in France of the BUCKFAST® trademark by a third party incurs the penalties stipulated in article L 716-9 of the Intellectual Property Code.

We hereby request that you desist immediately from using our trademark, and from removing the terms BUCKFAST, BUCK, etc. from your advertising, websites, blog, etc. ...**immediately**.

Yours sincerely,

THOMINE Dominique

Letter 1. From Dominique Thomine, owner of the Buckfast trademark to a beekeeper, December 2014, <https://www.mathieua.fr/pdf/COURRIER-Max2014.jpg>

SCP BROTTIER – ZORO

Avocats à la Cour

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Exercant en collaboration avec :
Sandra LARCHE – Avocat

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Poitiers, le 27 novembre 2014

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e-mail : scp.brottier.zoro@avocatline.com.fr

**Nos réf à rappeler: 009068 TZ/CB
THOMINE-FROUX / LEG**

Monsieur le Co-Président,

Je suis l'Avocat de Monsieur THOMINE Dominique, représentant de la SAS BUCKFAST, qui vient aux droits de Monsieur FROUX Dominique en vertu d'un acte de cession de marque du 13 août 2014.

Précédemment, j'ai eu à assurer la défense de Monsieur FROUX devant le Tribunal de Grande Instance de Nancy, devant la Cour d'Appel de Metz ainsi que devant la Cour d'Appel de Nancy.

Monsieur Dominique THOMINE m'a remis copie de votre lettre en date du 17 novembre 2014 dans laquelle vous semblez affirmer que les termes de « BUCKFAST » et « BUCK » (propriété de la SAS BUCKFAST) seraient désormais dépourvus de caractère distinctif conformément à l'Art. L. 711-2 du code de la propriété intellectuelle et ne pourraient plus être enregistrés comme marques.

Je crains que votre analyse soit totalement erronée et vous amène à inciter vos adhérents à porter préjudice à mon client par une utilisation illégitime de la marque en cause.

Si vous le permettez, je rappellerai simplement les termes de l'arrêt de la Cour de Cassation du 24 juin 2014 qui sont les suivants:

« Attendu qu'en statuant ainsi, alors qu'elle avait relevé que les pages de l'ouvrage dénommé « L'abeille Buckfast en question » publié à la fin de l'année 1999, évoquait la diffusion depuis 22 ans en France de la race d'abeilles Buckfast et démontrait que cette race était connue en France, ce dont il ressortait qu'en 2003, les termes « Buckfast » et « Buck » étaient devenus, dans le langage des professionnels de l'apiculture, nécessaires et usuels pour désigner un certain type d'abeilles, la Cour d'Appel, qui n'a pas tiré les conséquences légales de ses propres constatations, a violé les textes susvisés... »

« Casse et annule dans tous ses dispositions, l'arrêt rendu 15 avril 2013 entre les parties par la Cour d'Appel de Nancy ; remet en conséquence la cause et les parties dans l'état où elles se trouvaient avant ledit arrêt et, pour être fait de droit, les renvoie devant la Cour d'Appel de Nancy autrement composée. »

Si vous lisez bien cette décision, à aucun moment, il n'est indiqué ce que vous affirmez.

La Cour de Cassation a simplement posé un problème de motivation de l'arrêt qui a été rendu par la Cour d'Appel de Nancy.

Ainsi, la Cour d'Appel de Nancy doit donc réexaminer l'ensemble du litige tant en fait qu'en droit et les parties ont par conséquent été remises dans la situation où elles étaient avant l'arrêt de la Cour d'Appel de Nancy, c'est-à-dire après le jugement du Tribunal de Grande Instance de Thionville en date du 27 avril 2007, lequel, je le rappelle, avait donné gain de cause à Monsieur FROUX.

La Cour de Cassation ayant renvoyé les parties devant la Cour d'Appel de Nancy autrement composée, ce procès est actuellement en cours puisque Monsieur LEG a saisi cette juridiction qui devra statuer dans les mois à venir.

Je me permets également de rappeler qu'à ce stade, trois juridictions du fond ont déjà donné gain de cause à Monsieur FROUX, à savoir :

- Le Tribunal de Grande Instance de Thionville par jugement du 27 avril 2007 ;
- la Cour d'Appel de Metz par un arrêt du 13 avril 2010 ;
- La Cour d'Appel de Nancy (sur renvoi) par arrêt du 15 avril 2013.

A mon sens, rien ne permet de dire que la Cour d'Appel de Nancy autrement composée donnera gain de cause à Monsieur LEG puisque nous aurons à plaider ce litige dans les mois à venir.

En attendant que cette juridiction autrement composée ne statue, je vous saurais gré d'inviter vos adhérents à s'abstenir de toute utilisation de la marque « Buckfast » ou « Buck » car, pour ma part, j'ai reçu mandat ferme d'engager des poursuites à l'encontre de toute personne qui violerait le droit de propriété que la SAS BUCKFAST tient de Monsieur FROUX.

Dans votre lettre datée du 17 novembre 2014, vous avez mentionné que vous entendiez publier votre courrier dans la revue « Abeille et Fleurs » de décembre 2014.

Pour le respect du contradictoire et au nom du droit de réponse, il m'apparaît logique que vous puissiez publier également la présente réponse que je vous adresse.

Bien évidemment, je vous laisse le soin de remettre cette lettre à l'Avocat de l'UNAF, par l'intermédiaire duquel vous pourrez me répondre.

Je vous prie de croire, Monsieur le Co-Président, en l'assurance de mes sentiments distingués.

Thierry ZORO

Our reference: 009068 TZ/CB

THOMINE-FROUX / LEG

Dear Mr Co-President,

I am the lawyer for Mr THOMINE Dominique, the legal representative of SAS BUCKFAST, and I represent the rights of Mr THOMINE Dominique by virtue of a trademark assignment dated 13 August 2014.

I have previously defended Mr FROUX before the High Court of Nancy, the Court of Appeals of Metz as well as before the Court of Appeals of Nancy.

Mr Dominique THOMINE has given me a copy of your letter dated 17 November 2014 in which you appear to state that the terms "BUCKFAST" and "BUCK" (owned by SAS BUCKFAST) hereby appear to be deprived of their distinctiveness in accordance with Art. L. 711-2 of the Intellectual Property Code and may no longer be registered as trademarks.

I am afraid that your analysis is entirely incorrect and has led your members to prejudice the rights of my client through the unlawful use of the trademark in question.

Please allow me to provide a simple reminder of the terms of the ruling of the Court of Cassation dated 24 June 2014, as follows:

"Whereas in so ruling, while noting that the pages of the book called "L'Abeille Buckfast en Question" published at the end of 1999, mentioned the dissemination of the Buckfast breed of bee over 22 years in France and demonstrated that this breed was known in France, which suggested that by 2003, the terms "Buckfast" and "Buck" had become necessary and usual terms in professional beekeeping circles to designate a certain type of bee, the Court of Appeal, which did not draw the correct legal conclusions from its own findings, violated the aforementioned texts..."

"Quashes and cancels all of the provisions of the ruling issued on 15 April 2013 between the parties by the Court of Appeal of Nancy; consequently restores the cause and the parties to the state they were in before the said ruling and, for ratification, these are returned to the Court of Appeal of Nancy with a differently constituted bench."

A careful review of this ruling will show that at no point does this indicate what you say.

The Court of Cassation simply posed a problem of reasoning for the ruling issued by the Court of Appeal of Nancy.

Thus, the Court of Appeal of Nancy must therefore re-examine the whole of the dispute both in fact and in law, and the parties have therefore been returned to the situation in which they were before the ruling of the Court of Appeal of Nancy, i.e., following the ruling of the Tribunal de Grande Instance of Thionville dated 27 April 2007, which, I remind you, ruled in favour of Mr. FROUX.

The Court of Cassation having referred the parties to the Court of Appeal of Nancy with a differently constituted bench, this trial is currently in progress since Mr. LEG has sought a ruling which will be issued in the coming months.

I would also like to remind you that at this stage, three lower courts have already ruled in favour of Mr. FROUX, namely:

- The High Court of Thionville in its ruling of April 27, 2007;
- The Court of Appeal of Metz in its ruling of 13 April 2010;
- The Court of Appeal of Nancy (on referral) in its ruling of April 15, 2013.

In my view, there is no reason to subjects that the Court of Appeal of Nancy, with a differently constituted bench, will win the case against Mr. LEG since we will be called upon to litigate this dispute in the months to come.

While waiting for this differently constituted bench to rule, I would be grateful if you would request your members to refrain from any use of the "Buckfast" or "Buck" brand because, for my part, I have received a firm mandate to prosecute any person who violates the ownership rights that SAS BUCKFAST has received from Mr. FROUX.

In your letter dated 17 November 2014, you mentioned that you intended to publish your letter in the magazine "Abeille et Fleurs" of December 2014.

In order to abide by the principle of the right to be heard and the right of reply, it seems logical to me that you might also publish this answer that I am addressing to you.

Obviously, I leave it up to you to deliver this letter to the UNAF lawyer, through whom you can reply to me.

Yours sincerely,

Thierry ZORO

**Letter 2. From Maître Thierry Zoro, lawyer for Dominique Thomine, to Jean-Marie Sirvins,
President of the National Union of French Beekeepers (UNAF), November 2014,
<https://www.mathieua.fr/pdf/LettreAvocat.jpg>**

Reading through these two documents shows how serious things had become. The tone had been set. Only holders of the Buckfast® trademark registered with the INPI had the right to market, i.e., sell, their queens and swarms of bees under the Buckfast name, otherwise they would be taken to court for trademark infringement. This is exactly what happened to a beekeeper in the Moselle, Florent Leg, says Philippe Gaudet, a manager at the National Association of Queen Breeders and Apicultural Breeding Centres (Anercea): "On 25 February 2004, Mr. Dominique Froux summoned Mr. Florent Leg, a beekeeper in Moselle, before the Thionville High Court, accusing him of infringing the Buckfast trademark. [...] After more than

12 years of proceedings, an initial ruling, three appeal rulings and two in cassation, the final ruling was finally pronounced in a third cassation appeal, on 5 July 2011 (Gaudet 2017: 310)".

This latest ruling "dismissed the claim by owners of the Buckfast trademark of trademark infringement on the grounds that when referring to the species of bee in question as part of a proposed transaction between specialists, Mr. Leg had used the trademark in line with fair use in industrial or commercial matters, making use thereof which the titleholder of the trademark was not entitled to prohibit, such that the infringement claim is unfounded" (Gaudet 2017: 310).

Therefore, beekeepers will henceforth have the right to use the term Buckfast to refer to and sell swarms and queens which belong to the strain created by Brother Adam and continued by numerous European beekeepers-selectors, provided that such use is in line with fair use in industrial or commercial matters (Gaudet 2017: 310, Angot 2017). But since the Buckfast® trademark also exists and can only be used by its holder, currently the company Buckfast France, Philippe Gaudet (2017: 310) proposes that beekeepers, breeders and selectors who sell Buckfast use the term "Buckfast strain swarm" or "Buckfast species queen" to effectively differentiate themselves from the Buckfast trademark®.

It has therefore taken almost 15 years of legal proceedings and seven different rulings (!) to bring to a close the controversy over the term "Buckfast": it was initially a name given to bees produced by the natural cross-breeding of Italian queens and English dark bee males in 1927, in the apiary of the Buckfast monastery, and which, over the course of the 20th century and thanks to the work of Brother Adam, became a new *strain* of bee *and* a *trademark*.

4. The heirs of Brother Adam

As part of the dissemination of Brother Adam's work, which is still ongoing, several individuals - all of them beekeepers and some also scientists - have played an important role, and notably Jean-Marie van Dyck, a former teacher at the Université de Médecine de Namur in Belgium, a beekeeper himself. With some of his Belgian beekeeper friends, he founded the *Groupe des Goulettes* in the early 2000s, which continues the work of selecting the Buckfast bee, notably by proposing the artificial insemination of queens to control the male bloodline. At the same time, Jean-Marie van Dyck created a website on which he put the writings of Brother Adam online, and notably his accounts of his travels, the title of which, "In Search of the Best Strains of Bees" nicely summarises the monk's objective. His writings had been published from the 1950s onwards in English in *Bee World* and in French in *La Belgique Apicole*, two magazines

which have contributed significantly to the dissemination of Brother Adam's works across all of Europe.

Jean-Marie van Dyck also created a freely accessible online database, *Pedigreeapis*, which shows the *pedigrees* of Brother Adam's queens from 1925 until 1992, the year he retired, as well as of those of European beekeepers who agreed and who apply Brother Adam's breeding principles. A pedigree is a list of all of the ancestors of animal, the queen in this case, namely its genealogy on its maternal and paternal sides. Thanks to this database, today's beekeepers can trace the bloodlines of the Buckfast queens that they purchase. After Jean-Marie van Dyck's death, young Belgian beekeepers, passionate about horse breeding, poultry and... bees, founded the *Buckfast Wallonia* association, which continues the selection work on the Buckfast bee.

Across Europe, numerous other initiatives, both individual and collective, are ongoing, such as the breeding, selection and multiplication work carried out by Jos and Annette Guth and Paul Jungels in Luxembourg, who have gained worldwide notoriety, or the creation of the *Arista Bee Research Foundation* in the Netherlands in 2013.

In France, the pioneering colossal work of Jean-Marie van Dyck and the Groupe des Goulettes was taken over in 2020 by three beekeepers who founded the Centre d'Etudes Techniques Apicoles, *Mellifera*, and the IndexMellifera database (<https://index-mellifera.org/welcome/>). As these two databases (*Pedigreeapis* and *IndexMellifera*) demonstrate, numerous European beekeepers define themselves as "Buckfast breeders" and sell Buckfast queens. Publication on the website includes an annual page for each breeder, classified by country:

"The top part of the page covers all of the queens that have produced offspring, with their pedigree going back four generations. If it is found that more than four generations are known, a special page is generated, which you can access by clicking on "etc." at the end of the line, listing the complete pedigree of the colony (its queen). The lower part of the page lists the pedigree of the line(s) of drones which have been used, either in a breeding station, or for [insemination](#), or in controlled [moonshine mating](#). For several drone lines, the various matings are given" (<https://www.pedigreeapis.org/>).

These different initiatives demonstrate how beekeepers are seeking to keep a hold and control over the lines and races of Buckfast bee that they breed, for these to remain freely accessible to all in order to prevent any commercial monopolisation or appropriation. Being together, sharing, exchanging, creating a collective, offering a selection for Farming 2.0 by using IT and Internet tools, this is what the heirs to Brother Adam have managed to achieve.

Conclusion

The very subjective and symbolic tale of this bee, which has become one of the world's best known, demonstrates the interweaving of nature and cultivation and the impossibility of disentangling, *when all is said and done*, the product of nature and that of cultivation. Strain

and brand, nature and cultivation, the Buckfast bee embodies the two simultaneously, a nature-cultivational bee. This story is emblematic of that of other races of honey bee used in professional commercial apiculture (such as the Italian, Dark, Caucasian, or Carnica). Even if they did not have a Brother Adam, they are all the result of selections, cross-breeding, mixes, hybridisation, exchanges, and circulation which prevent any disentangling of the now inextricable links between nature and cultivation. And yet it is this farm animal, regardless of the strain, which has become a guardian and emblem of our biodiversity.

The tale of the creation of the Buckfast bee and its perpetuation also shows that it is the beekeepers who have retained control over the selection, breeding and multiplication of this bee (as is the case with other races of bee). This is an essential difference from other animal and agricultural sectors in general where the French state has taken control, from the 1950's onward, of the animal and plant selection processes, stripping the breeders and farmers of this essential part of their activities.

In this sense, the tale of the Buckfast bee clearly belongs to the Holocene. It in fact bears witness to an individualised and personalised *interspecies* process, the threads of which can be followed, tracing the role of humans and non-humans, the story of the *pedigrees* and genealogies of the Buckfast queens at different *place-times*, to use Julien Blanc's expression (2009). Buckfast breeding in particular (and bees in general) keeps us at arm's length from the *proliferations* of the Anthropocene as recounted by Anna Tsing (2022). There has been no industrialisation of apiculture, either in France or in Europe, even if there has been an intensification of practices. Because even though the *Buckfast* is a hybrid being, belonging to the domain of the *cultivated*, as André-Georges Haudricourt (1964) would have put it, as opposed to the world of the *savage* and the *uncivilised*, it also bears witness to an era, or rather, a way of working with animals which allows the search for profitability and the *sustainability* of ecosystems and nature to be reconciled (Tsing 2022: 43).

This alliance is enabled because apiculture, in France as in Europe, continues to develop on the margins or interstices of capitalism. It does not represent a sufficiently significant financial stake for the State to seek to take control of it, contrary to what has happened in the other animal and plant sectors since the 1950's.

Left free to breed, select and multiply their colonies of bees, beekeepers have organised themselves in more or less informal networks and groupings, within which they exchange, collaborate and share their knowledge, know-how and experiences with the Buckfast (and other bees). A professional landscape is therefore emerging which is far removed from the plantations of the Anthropocene, a decentralised arrangement of beekeepers and bees, humans and non-humans, in which trade and the search for profitability cohabit and coexist with the maintenance of *sustainability* even if this is sometimes achieved at the cost of vital conflicts, as this article has shown.

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