

Farmers Continue to Fight Monsanto's Threats, Intimidation

BY DAVE GUTKNECHT

Along with November 2012 referendums in California and Washington to require labeling of genetically engineered (GMO) foods, legal action continues against the leading GMO proponent and agricultural giant, Monsanto. A major lawsuit against Monsanto was denied in at the district court and has been appealed. On July 5, 2012, 75 family farmers, seed businesses, and agricultural organizations representing over 300,000 individuals and 4,500 farms, filed a brief with the United States Court of Appeals for the Federal Circuit in Washington, D.C., asking the appellate court to reverse a lower court's decision from February dismissing their protective legal action against Monsanto's patents on genetically engineered seed.

The plaintiffs brought the preemptive case against Monsanto in March 2011 in the Southern District of New York (*Organic Seed Growers and Trade Association et al. v Monsanto*) and specifically seek to defend themselves from nearly two dozen of Monsanto's most aggressively asserted patents on GMO seed. They were forced to act preemptively to protect themselves from Monsanto's abusive lawsuits, fearing that if GMO seed contaminates their property despite their efforts to prevent such contamination, Monsanto will sue them for patent infringement.

Lead plaintiff in the suit (and the main source for this report) is the Organic Seed Growers and Trade Association (www.osgata.org), a nonprofit agricultural organization made up of organic farmers, seed growers, seed businesses and supporters. OSGATA is committed to developing and protecting organic seed and its growers in order to ensure the organic community has access to excellent quality organic seed—seed that is free of contaminants and adapted to the diverse needs of local organic agriculture.

Dangerous drift

Seed and pollen can drift great distances, in some cases as far as 10–15 miles, increasing the likelihood of contamination of organic crops with genetics from Monsanto's laboratories. The latter seeds and crops are referred to as “transgenic,” and have had DNA of unrelated



organisms inserted into their DNA through human-engineered processes. The suit plaintiffs use and sell nontransgenic seed, more commonly referred to as heirloom, organic, or conventional seed.

In an attempt to sidestep the legal challenge, Monsanto moved to have the case dismissed, saying that the plaintiffs' concerns were unrealistic. In February 2012, the district court took Monsanto's side and dismissed the case, ridiculing the farmers in the process. Despite the fact that the plaintiffs' crops are at risk of being contaminated by genetically modified seed and the plaintiffs then sued for patent infringement by Monsanto, Judge Naomi Buchwald of the Southern District of New York dismissed the case, saying, “It is clear that these circumstances do not amount to a substantial controversy and that there has been no injury traceable to defendants.”

Every year Monsanto investigates over 500 farmers for patent infringement with their now-notorious “seed police.” To date, according to OSGATA, 144 farmers without a binding contract with the multinational corporation have had lawsuits brought against them by Monsanto, while another 700 farmers have been forced to settle out of court for undisclosed sums.

“Monsanto is known for bullying farmers by making baseless accusations of patent infringement,” said attorney Dan Ravicher of the nonprofit legal services organization Public Patent Foundation, which represents the plaintiffs in

the suit against Monsanto. “They've sued and harassed many other farmers who wanted nothing to do with their genetically modified seed, and now that organic and conventional farmers are fighting back, they claim they would never do such a thing without backing up their words with an enforceable promise.”

“We have a right to farm the way we choose,” said Maine organic seed farmer Jim Gerritsen, president of OSGATA. “Yet Monsanto is unwilling to control their GMO pollution, and they refuse to sign a binding covenant not to sue our family farmers for patent infringement should their seed contaminate our crops. Monsanto's publicized ‘Commitment’ promising that they would not sue farmers was described by Monsanto's own lawyers as being ‘vague.’ We will continue to pursue our right to farm, and the right of our customers to have access to good clean food and seed.”

Some plaintiffs have simply stopped growing certain types of crops due to the threat of contamination. Dave Murphy, founder and executive director of Food Democracy Now (www.fooddemocracynow.org), a coplaintiff in the suit, stated, “No company should be allowed to violate the property rights of America's farmers or threaten their livelihoods through the use of frivolous patent infringement lawsuits designed to control farmers and the food supply.”

Organic Seed Finder makes sourcing easier

In better news for organic growers, a new Organic Seed Finder project will serve as a valuable tool by providing reliable organic seed availability information. The project is hosted by the Association of Official Seed Certifying Agencies (AOSCA), and its data will be available to the general public.

An August 21 webinar introducing the Organic Seed Finder was led by Chet Boruff, CEO of AOSCA, and Kristina Hubbard, director of advocacy and communications for the Organic Seed Alliance. Extension personnel and University researchers also sponsor webinars for eOrganic, an online resource for educators, growers, certifiers, and researchers. Find upcoming and archived eOrganic webinars at: www.extension.org/pages/25242. ■

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