



FTCLDF in Suit over Monsanto GMO Seed

Press Release - April 13, 2011

Falls Church, Virginia (April 13, 2011) - On behalf of 60 family farmers, seed businesses and organic agricultural organizations, the Public Patent Foundation (PUBPAT) filed suit on March 29 against Monsanto Company to challenge the chemical giant's patents on genetically modified seed. The organic plaintiffs were forced to sue preemptively to protect themselves from being accused of patent infringement should they ever become contaminated by Monsanto's genetically modified seed, something Monsanto has done to others in the past. The action seeks a ruling that would prohibit Monsanto from suing organic farmers and seed growers if contaminated by Roundup Ready seed.

The case, *Organic Seed Growers & Trade Association, et al. v. Monsanto*, was filed in federal district court in Manhattan and assigned to Judge Naomi Buchwald. Plaintiffs in the suit represent a broad array of family farmers, small businesses and organizations from within the organic agriculture community who are increasingly threatened by genetically modified seed contamination despite using their best efforts to avoid it. The plaintiff organizations have over 270,000 members, including thousands of certified organic family farmers. The Farm-to-Consumer Legal Defense Fund (FTCLDF) is a plaintiff in the suit.

"This case asks whether Monsanto has the right to sue organic farmers for patent infringement if Monsanto's transgenic seed should land on their property," said Dan Ravicher, PUBPAT's Executive Director and Lecturer of Law at Benjamin N. Cardozo School of Law in New York. "It seems quite perverse that an organic farmer contaminated by transgenic seed could be accused of patent infringement, but Monsanto has made such accusations before and is notorious for having sued hundreds of farmers for patent infringement, so we had to act to protect the interests of our clients."

Once released into the environment, genetically modified seed contaminates and destroys organic seed for the same crop. For example, soon after Monsanto introduced genetically modified seed for canola, organic canola became virtually extinct as a result of contamination. Organic corn, soybeans, cotton, sugar beets and alfalfa now face the same fate, as Monsanto has released genetically modified seed for each of those crops, too. Monsanto is developing genetically modified seed for many other crops, thus putting the future of all food, and indeed all agriculture, at stake.

In the case, PUBPAT is asking Judge Buchwald to declare that if organic farmers are ever contaminated by Monsanto's genetically modified seed, they need not fear also being accused of patent infringement. One reason justifying this result is that Monsanto's patents on genetically modified seed are invalid because they don't meet the "usefulness" requirement of patent law, according to PUBPAT's Ravicher, plaintiffs' lead attorney in the case. Evidence cited by PUBPAT in its opening filing today proves that genetically modified seed has negative economic and health effects, while the promised benefits of genetically modified seed - increased production and decreased herbicide use - are false.

"Some say transgenic seed can coexist with organic seed, but history tells us that's not possible, and it's actually in Monsanto's financial interest to eliminate organic seed so that they can have a total monopoly over our food supply," said Ravicher. "Monsanto is the same chemical company that previously brought us Agent Orange, DDT, PCB's and other toxins, which they said were safe, but we know are not. Now Monsanto says transgenic seed is safe, but evidence clearly shows it is not."

"Transgenic seed should not be on the market. They are a threat to the future of farming and consumer freedom of choice," asserted Pete Kennedy, Esq., President of FTCLDF. "Monsanto should not be suing farms whose land the company's products contaminate; Monsanto should be paying them damages."



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PLAINTIFFS

Abundant Acres	Adaptive Seeds, LLC	Alba Ranch
Baker Creek Heirloom Seed Co., LLC	Bryce Stephens	California Cloverleaf Farms
Canadian Organic Growers	Chispas Farms LLC	Chuck Noble
Comstock, Ferre & Co., LLC	Countryside Organics	Cuatro Puertas
Demeter Association, Inc.	Donald Wright Patterson, Jr.	Family Farm Defenders Inc.
Family Farmer Seed Cooperative	Farm-to-Consumer Legal Defense Fund	FEDCO Seeds Inc.
Food Democracy Now!	Frey Vineyards, Ltd.	Genesis Farm
Global Organic Alliance	Gratitude Gardens	Interlake Forage Seeds Ltd.
Jardin del Alma	Kirschenmann Family Farms Inc.	Koskan Farms
LaRhea Pepper	Levke and Peter Eggers Farm	Maine Organic Farmers and Gardeners Association
Mendocino Organic Network	Midheaven Farms	Mumm's Sprouting Seeds
Nature's Way Farm Ltd.	Navdanya International	North Outback Farm
Northeast Organic Dairy Producers Alliance	Northeast Organic Farming Association of Vermont	Northeast Organic Farming Association/Massachusetts Chapter, Inc.
Northern Plains Sustainable Agriculture Society	OCIA Research and Education Inc.	Ohio Ecological Food & Farm Association
Organic Crop Improvement Association International, Inc.	Organic Seed Growers and Trade Association	Paul Romero
Philadelphia Community Farm, Inc	Quinella Ranch	Richard Everett Farm, LLC
Ron Gargas Organic Farms	Rural Vermont	Seedkeepers, LLC
Siskiyou Seeds	Southeast Iowa Organic Association	Southern Exposure Seed Exchange
Sow True Seed	Sustainable Living Systems	T & D Willey Farms
Taylor Farms, Inc.	The Cornucopia Institute	Wild Plum Farm

STATEMENTS BY PLAINTIFFS

Many of the plaintiffs made statements upon filing of the suit.

Jim Gerritsen, a family farmer in Maine who raises organic seed and is President of lead plaintiff Organic Seed Growers and Trade Association (OSGATA) based in Montrose, Colorado, said, "Today is Independence Day for America. Today we are seeking protection from the Court and putting Monsanto on notice. Monsanto's threats and abuse of family farmers stops here. Monsanto's genetic contamination of organic seed and organic crops ends now. Americans have the right to choice in the marketplace - to decide what kind of food they will feed their families - and we are taking this action on their behalf to protect that right to choose. Organic farmers have the right to raise our organic crops for our families and our customers on our farms without the threat of invasion by Monsanto's genetic contamination and without harassment by a reckless polluter. Beginning today, America asserts her right to justice and pure food."

Dr. Carol Goland, Ph.D., Executive Director of plaintiff Ohio Ecological Food & Farm Association (OEFFA) said, "Consumers indicate, overwhelmingly, that they prefer foods made without genetically modified organisms. Organic farms, by regulation, may not use GMOs, while other farmers forego using



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them for other reasons. Yet the truth is that we are rapidly approaching the tipping point when we will be unable to avoid GMOs in our fields and on our plates. That is the inevitable consequence of releasing genetically engineered materials into the environment. To add injury to injury, Monsanto has a history of suing farmers whose fields have been contaminated by Monsanto's GMOs. On behalf of farmers who must live under this cloud of uncertainty and risk, we are compelled to ask the Court to put an end to this unconscionable business practice."

Rose Marie Burroughs of plaintiff California Cloverleaf Farms said, "The devastation caused by GMO contamination is an ecological catastrophe to our world equal to the fall out of nuclear radiation. Nature, farming and health are all being affected by GMO contamination. We must protect our world by protecting our most precious, sacred resource of seed sovereignty. People must have the right to the resources of the earth for our sustenance. We must have the freedom to farm that causes no harm to the environment or to other people. We must protect the environment, farmers' livelihood, public health and people's right to non GMO food contamination."

Ed Maltby, Executive Director of plaintiff Northeast Organic Dairy Producers Alliance (NODPA) said, "It's outrageous that we find ourselves in a situation where the financial burden of GE contamination will fall on family farmers who have not asked for or contributed to the growth of GE crops. Family farmers will face contamination of their crops by GE seed which will threaten their ability to sell crops as organically certified or into the rapidly growing 'Buy Local' market where consumers have overwhelmingly declared they do not want any GE crops, and then family farmers may be faced by a lawsuit by Monsanto for patent infringement. We take this action to protect family farms who once again have to bear the consequences of irresponsible actions by Monsanto."

David L. Rogers, Policy Advisor for plaintiff NOFA Vermont (Northeast Organic Farming Association of Vermont) said, "Vermont's farmers have worked hard to meet consumers' growing demand for certified organic and non-GE food. It is of great concern to them that Monsanto's continuing and irresponsible marketing of GE crops that contaminate non-GE plantings will increasingly place their local and regional markets at risk and threaten their livelihoods."

Dewane Morgan of plaintiff Midheaven Farms in Park Rapids, Minnesota, said, "For organic certification, farmers are required to have a buffer zone around their perimeter fields. Crops harvested from this buffer zone are not eligible for certification due to potential drift from herbicide and fungicide drift. Buffer zones are useless against pollen drift. Organic, biodynamic, and conventional farmers who grow identity-preserved soybeans, wheat and open-pollinated corn often save seed for replanting the next year. It is illogical that these farmers are liable for cross-pollination contamination."

Jill Davies, Director of plaintiff Sustainable Living Systems (SLS) in Victor, Montana, said, "The building blocks of life are sacred and should be in the public domain. If scientists want to study and manipulate them for some supposed common good, fine. Then we must remove the profit motive. The private profit motive corrupts pure science and increasingly precludes democratic participation."

David Murphy, founder and Executive Director of plaintiff Food Democracy Now! said, "None of Monsanto's original promises regarding genetically modified seeds have come true after 15 years of wide adoption by commodity farmers. Rather than increased yields or less chemical usage, farmers are facing more crop diseases, an onslaught of herbicide-resistant superweeds, and increased costs from additional herbicide application. Even more appalling is the fact that Monsanto's patented genes can blow onto another farmer's fields and that farmer not only loses significant revenue in the market but is frequently exposed to legal action against them by Monsanto's team of belligerent lawyers. Crop biotechnology has been a miserable failure economically and biologically and now threatens to undermine the basic freedoms that farmers and consumers have enjoyed in our constitutional democracy."



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Mark Kastel, Senior Farm Policy Analyst for plaintiff The Cornucopia Institute said, "Family-scale farmers desperately need the judiciary branch of our government to balance the power Monsanto is able to wield in the marketplace and in the courts. Monsanto, and the biotechnology industry, have made great investments in our executive and legislative branches through campaign contributions and powerful lobbyists in Washington. We need to court system to offset this power and protect individual farmers from corporate tyranny. Farmers have saved seeds since the beginning of agriculture by our species. It is outrageous that one corporate entity, through the trespass of what they refer to as their 'technology,' can intimidate and run roughshod over family farmers in this country. It should be the responsibility of Monsanto, and farmers licensing their technology, to ensure that genetically engineered DNA does not trespass onto neighboring farmland. It is outrageous, that through no fault of their own, farmers are being intimidated into not saving seed for fear that they will be doggedly pursued through the court system and potentially bankrupted."

The Public Patent Foundation is a not-for-profit legal services organization affiliated with the Benjamin N. Cardozo School of Law. PUBPAT protects freedom in the patent system by representing the public interest against undeserved patents and unsound patent policy. Read more about PUBPAT at www.pubpat.org

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Hyperlinks for the PDF

Organic Seed Growers & Trade Association, et al. v. Monsanto = <http://www.pubpat.org/assets/files/seed/OSGATA-v-Monsanto-Complaint.pdf>

Organic Seed Growers and Trade Association (OSGATA) = <http://www.osgata.org/why-organic-seed>

Ohio Ecological Food & Farm Association (OEFFA) = <http://www.oeffa.org/news/?p=237>

California Cloverleaf Farms = <http://burroughsfamilyfarms.com/our-philosophy.html>

Northeast Organic Dairy Producers Alliance (NODPA) = <http://www.nodpa.com/about.shtml>

NOFA Vermont (Northeast Organic Farming Association of Vermont) = <http://nofavt.org/>

Midheaven Farms = <http://www.secretgardengourmet.com/midheavenfarms/>

Sustainable Living Systems (SLS) = http://www.sustainablelivingsystems.org/upcoming_events.htm

Food Democracy Now! = http://action.fooddemocracynow.org/sign/kiss_your_organics_goodbye

The Cornucopia Institute = <http://www.cornucopia.org/2011/01/stop-genetically-engineered-alfalfa/>

The Public Patent Foundation = <http://www.pubpat.org/About.htm>