

- **Monsanto has filed AT LEAST 90 lawsuits involving more than 100 farmers.**
- **Those lawsuits have been filed in more than 20 states.**
- **The "mean" settlement in the cases is about \$75,000.**
- **The highest settlement was approximately \$2 million.**
- **More than 50% of the lawsuits were heard in Missouri courts.**

(The Motive) Market Concentration:

As of 2001, Six corporations—Aventis, Dow, Du Pont, Mitsui, Monsanto, and Syngenta—controlled:

- 98% of the global market for patented genetically engineered seed
- 70% of the global pesticide market
- 30% of the global seed market
- The big six biotech corporations had cornered 71% of all patents on corn, and 76% of all patents on soy.

(The Means) Patents on Genetically Engineered Organisms:

Utility Patents provide the right to exclude others from making, selling, or using (in the US) a patented invention for 20 years from filing the patent application. The 1980 US Supreme Court case of *Diamond v. Chakrabarty* upheld the decision that utility patent could be issued for a human engineered, soil-eating microorganism, an early patented GMO. The court declared that utility patents could be issued for life forms from nature if human hands alter the life forms. In 2001, the Supreme Court ruled in *J.E.M Ag Supply v. Pioneer Hi-Bred International, Inc.* that the utility patent gives rights to the patent holder of an altered organism that supercede the *Plant Variety Protection Act*, which grants a "farmer's saved seed exemption." The US court of Appeals in *Monsanto v. Trantham* in 2002 upheld this decision in a case involving saved Round-Up Ready Soy, and revisited *Pioneer* case, stating, "there are no exemptions for saving seed under a utility patent."

(The Contract) Technology Use Agreements:

When a farmer plants patented genetically engineered seeds, they enter into a "Technology Use Agreement" with the corporation that holds the patent on the genetic material, and essentially "lease" the use of the patented intellectual property for one season. In the case of *Monsanto v. Trantham*, Mr. Trantham's signature was apparently forged by his seed dealer, but the court made clear that Monsanto was still entitled to sue for patent infringement since the patented material was found on his farm the following planting season.

(The Impact) What does this mean for farmers?

Most of the publicity about multinational biotech corporations suing farmers centers on Monsanto and its "Roundup Ready" crops. Monsanto has been filing legal actions against farmers in the United States and Canada since these crops hit the market, alleging that farmers are using patented seed without having the appropriate contract with Monsanto. Andrew Burchett reported for agweb.com that **Monsanto has 30 lawsuits against farmers under way at any given time**. Hard data about these lawsuits is hard to find, since most of these cases are settled before trial, in a practice that Schmeiser has termed "farmer extortion."

From the Horses' Mouth:

The 1998 Monsanto Press Release, one of the only public documents discussing their policy on predatory lawsuits, explains that defendants of such cases who settled included:

- "A McCracken County, Ky., grower will pay \$25,000 for illegally pirating seed.
- A Ringgold County, Iowa, farmer paid a \$16,000 royalty for his unlawful actions.
- A father and son from Edwards County, Ill., settled with the company for \$15,000.
- An Ill. farmer from Christian County, will pay \$10,000 for his illegal actions."



Monsanto's "Seed Piracy Update" magazine ad boasts that "Numerous Defenses" to patent infringement lawsuits have been proven "Unsuccessful." Those listed include "forged signatures, ignorance, accident or mistake by farm employee, or pollen flow from neighboring field." The Ad makes an example like Kern Ralph in TN who was sued for \$1.7 million, and Bill "Dude" Trantham who has filed bankruptcy since his trial.

The Monsanto Hotline & Pinkerton Security:

Monsanto operates a piracy tips hotline, 1-800-ROUNDUP, where neighbors are encouraged to report suspected "seed pirates." Some advertisements for the hotline even offer you a free Monsanto leather jacket if your tip helps Monsanto find patent infringers. Monsanto employs private security agents from firms such as Pinkerton to conduct secret investigations on suspected "pirates." This includes trespassing to take samples.

The Bottom Line:

"Pollen flow," or "genetic drift" is an unavoidable aspect of pollinating crops grown outdoors. Whether by wind, bees, or direct seed movement (in turbines, falling off trucks, in elevators, or carried by birds), genetically engineered material moves through the environment. For the farmer who chooses not to purchase genetically engineered seed and enter into a technology use agreement, this presents serious legal considerations. For the organic or marketable non-GMO farmer, market loss presents a serious threat to livelihood. For the unknowing neighbor of a GMO farmer, Monsanto agents taking secret samples can lead to exorbitant out of court settlements (extortion), or costly lawsuits where the odds are stacked against them. To date, there are no known cases of GMO patent infringement lawsuits being filed in Vermont.

From a 1998 Monsanto Press Release: "Monsanto Releases Seed Piracy Case Settlement Details"

"Backed by U.S. patent law, Monsanto is vigorously pursuing growers who pirate any brand or variety of its genetically enhanced seed, such as Roundup Ready soybeans and cotton and Bollgard® cotton. The company has hired full-time investigators to follow up on all seed piracy leads it receives. To date, Monsanto has more than 475 seed piracy cases nationwide, generated from over 1,800 leads. Currently, more than 250 of these cases are under investigation."

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