

# Seed piracy remains center of lawsuits

**Saving seeds from Monsanto's patented crops sends farmers to court**

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Monsanto is looking for seed pirates. The St. Louis-based agricultural company, has been pursuing legal action against farmers who save seed — a practice known as seed piracy. These lawsuits, which some have been calling unfair, have had far-reaching effects, and now a Kirksville politician is trying to do something about it.

Monsanto's lawsuits usually involve patents on RoundUp Ready soybeans, which, like all RoundUp Ready crops, are resistant to herbicide, said Bill Freese, science policy analyst for the Center for Food Safety, a non-profit environmental advocacy group. The seeds of soybeans can be saved from year to year, he added.

Freese also said Monsanto considers farmers who save the company's seed as violating intellectual property laws.

Lawsuits involving genetically modified seed that are filed by Monsanto usually are settled out of court because many farmers can't afford to go up against the company, he said.

There have also been lawsuits involving farmers who accidentally unknowingly planted or saved Monsanto seed, according to the Center for Food Safety's report "Monsanto vs. U.S. Farmers."

Freese said these lawsuits are an important issue.

"Traditionally, for thousands of years, no one questioned the right of farmers to save seed," he said. "It's only really changed in the past decade or two when the [United States] Patent Office started to grant patents on seeds."

He said patents allow companies total control over the seed and everything that happens to it.

The Center for Food Safety opposes this situation, Freese said. He pointed out that Congress has never authorized patents on seeds and that the U.S. Patent Office is acting independently

when it patents them.

Freese said the Center supports the Plant Variety Protection Act of 1970, which states that competitors can't reproduce one another's seeds, although farmers and plant breeders were exempted.

"[The act] gives companies the protections they need but doesn't turn farmers into criminals for doing something farmers have done for millennia," he said.

Freese said Monsanto is the only major seed company that pursues these kinds of lawsuits involving genetically modified seed.

"The company has always been very aggressive, and they have a long history of [litigation]," Freese said. "... This is a company that doesn't have a lot of concern for everyday people."

Freese said Monsanto has been known to send private investigators to farmers' fields to look for RoundUp Ready crops and then intimidate them into signing documents that allow Monsanto into records.

"These tactics are reprehensible," he said.

These lawsuits have generated legislation that offers protection for farmers in Indiana, North Dakota and South Dakota, Freese said. Under these laws, if a company wants to pursue legal action for genetically modified seed, it must send a letter to the farmer and to a local elected official.

Monsanto has pursued more than 500 patent infringements in Missouri and Kansas as of June 2006, according to "Monsanto vs. U.S. Farmers." Fewer than five of these infringements took place in Adair County, also according to the report.

Bradley Mitchell, director of public affairs for Monsanto, said farmers who use Monsanto seed must pay a technology fee and sign a legally binding contract through which the farmer agrees not to save the seed.

Mitchell said seed piracy lawsuits are a relatively rare occurrence, but necessary.

"If we don't get those technology fees, and we're not paid for it, we can't dump that back into developing these new tools for farmers, so it's really

important for our business that we get paid," he said.

Not pursuing seed piracy is unfair to the farmers who do pay the fee, Mitchell added.

"Farming is a competitive business, and if your neighbor's using the same thing [as] you and not paying for it, it puts those farmers at competitive disadvantage," he said.

Mitchell said the price of the technology fee varies based on its value to the farmer.

## A Farming Snapshot

Philip Ayers, director of the Adair County Farm Services Agency, said the area has about 900 to 1,100 farms and 800 farmers. Corn and soybeans are the most prevalent crops, followed by oats, wheat and livestock, he added.

Of those, about 80 to 90 percent of the soybeans are Monsanto-produced RoundUp Ready soybeans, and at least 75 percent of the corn is RoundUp Ready as well, Ayers said.

Ayers said he hasn't heard of anyone in Adair County who has run into legal problems with Monsanto.

He said that locally, the number of genetically modified crops has been steadily increasing during the last decade.

"The yield is better with our different stacks of corns and things like that," Ayers said. "[With] RoundUp Ready corn and beans ... you can go out and kill the weeds much easier. RoundUp Ready is one of the safest herbicides we've got, so it's more environmentally good to go that way. About everything you can do is better that way, actually."

Mark Campbell, associate professor of agricultural science, said a variety of crops are grown on the University Farm. These include hay and corn for livestock feed and research purposes, plus apples, pumpkins and grapes, he said.

The Farm does not use seed directly from Monsanto but rather gets it from Asgrow and free gene banks operated by the United States Department of Agriculture, Campbell said.

He added, however, that some of the seed planted on the Farm includes Monsanto-generated technology because the company sells or shares its genes with other seed companies.

Although advocacy groups have raised concerns about seed piracy, farmers aren't obligated to use genetically modified seeds, Campbell said.

"If they don't like [Monsanto's] policy, they don't have to buy it," he said. "They can buy some things that



Photo illustration by Erin Givarz/Index  
Soybeans (above) and corn are the most prevalent crops in Adair County. Soybeans of the RoundUp Ready variety, marketed by Monsanto, have been the focus of several intellectual property lawsuits.

legally you could grow back. It seems to me that would be a major consideration in the counter-argument for people who get upset about that."

Campbell said that as a researcher who develops corn varieties, he understands why Monsanto would want to protect its products.

"It's just like the old debate with downloading music illegally," he said. "Someone invested a lot of money in that."

## A Possible Solution

In 2003, Sen. Wes Shoemaker, D-Kirksville, then a state representative, sponsored the Seed Availability and Competition Act in the Missouri House of Representatives. Had it become legislation, the bill would have required farmers who plant patented seed and want to save that seed for the following growing season to register with the USDA and pay a fee of \$7 for each bushel of seed retained, according to the bill's summary.

Shoemaker, a farmer himself, said he proposed the bill after noticing that Monsanto charged \$6 per unit of seed.

"What I was proposing, not to cheat [Monsanto] out of their fees, was to allow the farmer to save his own seed, pay \$6 a bushel, and that way we could keep a lot of the business local," he said.

Shoemaker said Monsanto has been

buying out smaller seed companies one by one, a practice that has a direct impact on farmers because it limits competition.

"What I want is for farmers to be self-reliant," he said. "Everybody has to go to one gene pool. ... The general farmer's viewpoint about the whole deal is, 'I've never bought anything, and it's not mine. I've never grown anything on my soil with my toil, and it wasn't mine.' That's the values issue with the farmer."

Shoemaker said that a few years ago on his property he identified three private investigators from a law firm indirectly affiliated with Monsanto.

"Number one, they wanted to intimidate me, and number two, they were arriving even a year before I was elected to office for ... a negative political campaign that was going to say, 'He's even been investigated for stealing seed,'" he said, noting that he has never used genetically modified seed.

Shoemaker said he has had farmers in his community approach him for help after running into legal problems with Monsanto. He usually gives them words of encouragement and then directs them to an attorney, he said.

"I've never seen a company stay in business by suing the very people it's supposed to serve," Shoemaker said.

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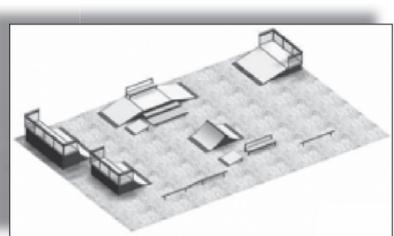


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