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6 Farmers in Class Action vs. Monsanto

Lawsuit Questions the Company's Testing of Genetically Modified Seeds

By JOHN SCHWARTZ
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Environmental activists yesterday opened a new front in their fight against genetically modified foods: the courts.

At the urging of anti-biotechnology groups, five farmers in the United States and one in France, represented by 11 law firms, filed a class-action lawsuit in U.S. District

Court in Washington against Monsanto Co., the largest producer of genetically modified seeds and the focus of anger by those who oppose the technology.

The 55-page complaint claims that St. Louis-based Monsanto defrauded farmers when it told them the seeds were safe and that the public would accept genetically modified crops, because—according to the plaintiffs—the company should have known that no nation's standards of testing are adequate to guarantee such safety. The suit also alleges that Monsanto tried to illegally control the market for genetically modified agriculture and violates U.S. antitrust law with policies that require farmers to "license" its seeds instead of buying them outright.

The lawsuit does not allege that the crops themselves are unsafe, only that the company did not undertake the necessary testing to ensure safety.

Jack H. Watson, Monsanto's chief legal strategist, said the safety of the company's products and the antitrust implications of the company's business acquisitions had been thoroughly re-

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viewed and approved by U.S. antitrust authorities.

Watson said that he had not had time to thoroughly review the court papers because the company was only served yesterday afternoon, but that the industry had spent "billions of dollars" ensuring the safety of genetically modified foods.

"We are ready, willing, able and eager to answer any and all questions, and any and all challenges to the safety of these products, period," Watson said.

The activists say they hope that the suit—filed during the crucial time when farmers are deciding whether to buy genetically modified seeds for next year's harvest—will reshape regulation of genetic engineering around the world.

The court filing "refocuses the discussion" of genetic modification, said Jeremy Rifkin, president of the Foundation on Economic Trends and an outspoken critic of gene-altered food. "The focus is no longer on trade," he said, but will become a broader discussion of the future of agriculture.

"I believe we are at the cusp of a global populist political movement," Rifkin said.

Companies such as Monsanto genetically modify foods by inserting genes from one organism into another in order to confer a useful characteristic. Monsanto, for example, sells corn and soybeans that produce BT, a natural insecticide favored by organic farmers. Another Monsanto product line is not killed by the company's popular and relatively safe Roundup herbicide, which allows farmers to spray for weeds without killing the plants. Both products, the company says, allow farmers to save money and time, and to use less pesticides.

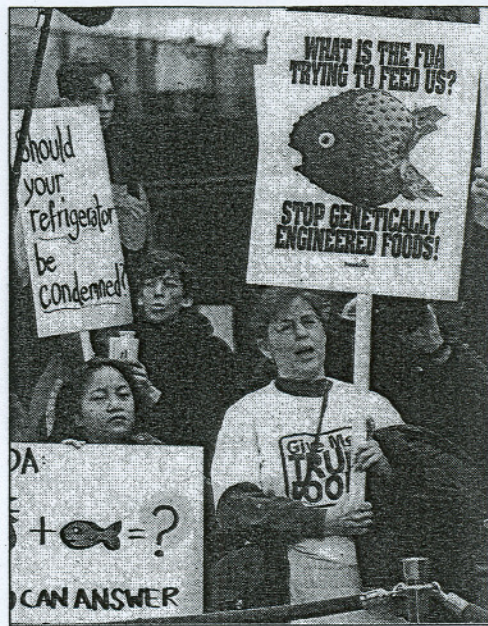
There is no control exerted over the market, Watson insisted: "All the farmers ever have to do, any time, is to say 'no.'"

The lawsuit comes at a critical time for Monsanto: the season in which North American farmers decide which seeds to buy for the coming year's harvests. The company released a survey yesterday showing that about 26 percent of U.S. soybean growers said they planned not to buy genetically modified seeds, about the same amount as last year's 25 percent.

Monsanto's Watson said that genetically modified seeds make up about 35 percent of the nation's corn crop and 55 percent of the nation's soybean harvest. American farmers, he said, "have taken this technology up in no less than a phenomenal way—because it works."

The Food and Drug Administration has ruled that the genetically modified foods are equivalent to garden-variety crops—but those suing Monsanto claim that even if the company complied with the regulatory requirements of every nation in which it sells its seeds, that it still should have known that it had not done enough to truly ensure that the crops would harm neither humans nor the environment.

Rifkin approached the National Family Farm Coalition to round up plaintiffs, and found ready agreement, said Bill Christison, president of the coalition.



FILE PHOTO BY CHARLES BENNETT—ASSOCIATED PRESS

Demonstrators protest genetically modified foods outside an FDA hearing in Chicago last month.

Farmers only bought biotech seeds, he insisted, because "agricultural policy is so bad in the U.S. that a drowning man will grab at a straw—and the farmers have been sold a bill of goods."

The 11 law firms involved are led by Washington lawyer Michael D. Hausfeld, who successfully sued the Swiss over Holocaust bank accounts. The suit names other major biotech firms as "co-conspirators," but does not include them in the suit. The ultimate goal, Hausfeld said, is to effect social change through the courts.

"This is no different from what courts were asked to do in *Brown versus Board of Education*," the Supreme Court case that ended legal race discrimination, Hausfeld said. "It fits my pattern—dealing with cases that involve fundamental human rights."

A longtime critic of the growing role of trial lawyers as policymakers ridiculed the new suit—especially the claim that the company should have done more to warn farmers about health concerns. "Rifkin and company disparaged the product—and now they're saying since it was disparaged that the company engaged in fraud because they didn't warn them about Jeremy Rifkin?" asked Washington lawyer Victor Schwartz, a leading proponent of tort reform. "This is a new perpetual motion machine for the plaintiffs' bar."

Monsanto stock, long depressed because of the continuing biotechnology controversy, dropped slightly on the news of the lawsuit, falling 25 cents to close at \$41.87½.

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