

# **THE ORGANIC SEED GROWERS AND TRADE ASSOCIATION (OSGATA) et al. V. MONSANTO**

**Challenging Monsanto Patents on Transgenic Seed and Asking the Court for a Declaratory Judgment to Protect Inadvertently Contaminated Farms from Patent Infringement Claims**

**ASSERTED ARGUMENTS:**

**Monsanto's transgenic seed patents are INVALID**

**because they fail to fulfill basic legal requirements necessary to obtain a patent.**

**The patents fail to meet the UTILITY REQUIREMENT of the U.S. Patent Act because transgenic seed is not socially useful. The evidence:**

1. Monsanto seeds INCREASE the use of herbicides (this is the historical record).
2. Monsanto seeds DO NOT INCREASE yield  
(as a study by the Union of Concerned Scientists has shown).
3. Monsanto seeds INCREASE long-term costs to farmers in multiple ways; they offer an expedient short-sighted, short-term, virtually addictive way to lower farming costs while increasing long-term farming, nutritional, public health, and environmental costs.
4. Monsanto seeds have been linked to a variety of human and animal illnesses.  
(Studies in several nations have now shown this.)

**Monsanto's transgenic seed patents CANNOT BE INFRINGED by plaintiffs under established court rulings needing to be more widely recognized above the conventionally-utilized "strict liability" standard that does not consider intent.**

If more fundamental and just standards were recognized, organic farmers could not be held liable for patent infringement when their farms become contaminated through no fault of their own.

- Arguments: 1. genetic structure deteriorates; it is not the same this year as it was last;  
2. "Strict liability" regardless of intent is perverse and absolutely unjust. It is used to intimidate.  
3. Entrapment into infringement is statutorily illegal.

**Monsanto's transgenic seed patents should be understood to be UNENFORCEABLE because patents may not be used to secure and maintain anti-competitive advantage.**

Monsanto has MISUSED its patents on transgenic seed to achieve and maintain anti-competitive and monopoly advantage. They have engaged in inequitable behavior.

Evidence:

As much as about 85% of all corn, soybeans, sugar beets, cotton and canola grown in the U.S.A. contain Monsanto-patented genes, and the company has bought out many of its competitors.

This has diminished consumer choice and slowed useful innovation.

Monsanto uses ABUSIVE LITIGATION PRACTICES

and ANTI-COMPETITIVE, unreasonably confiscatory LICENSING AGREEMENTS.

Any contamination of a plaintiff's land by Monsanto's seeds, pollen, or genes represents trespass which wrongfully interferes with the plaintiff's rights to possess, enjoy, and use their property.

**Monsanto should NOT BE ENTITLED TO ANY REMEDY against contaminated plaintiffs because they have not suffered any contractual or infringement-related loss.**

**The income loss has been suffered by the organic, biodynamic, or non-transgenic farmer.**

Monsanto should have no right to shut down or assume rights to a farm contaminated by its seed, pollen, and genes through transgenic trespass, because the event has caused them no loss.

# THE 83 PLAINTIFFS TAKING ON MONSANTO IN OSGATA et al. v. MONSANTO ARE:

## **33 Farms and Individual Farmers:**

Alba Ranch (Kansas); Wild Plum Farm (Montana); Gratitude Gardens (Washington); Richard Everett Farm, LLC (Nebraska); Philadelphia Community Farm, Inc (Wisconsin); Genesis Farm (New Jersey); Chispas Farms LLC (New Mexico); Kirschenmann Family Farms Inc. (North Dakota); Midheaven Farms (Minnesota); Koskan Farms (South Dakota); California Cloverleaf Farms (California); North Outback Farm (North Dakota); Taylor Farms, Inc. (Utah); Jardin del Alma (New Mexico); Ron Gargas Organic Farms (Pennsylvania); Abundant Acres (Missouri); T & D Willey Farms (California); Full Moon Farm, Inc. (Vermont); Common Good Farm, LLC (Nebraska); American Buffalo Company (Nebraska); Radiance Dairy (Iowa) ; Quinella Ranch (Saskatchewan); Nature's Way Farm Ltd. (Alberta); Levke and Peter Eggers Farm (Alberta); Frey Vineyards, Ltd.(California); Bryce Stephens (Kansas); Chuck Noble (South Dakota); LaRhea Pepper (Texas); Paul Romero (New Mexico); Brian Wickert (Wisconsin); Bruce Drinkman (Wisconsin); Murray Bast (Ontario); and, Donald Wright Patterson, Jr. (Virginia)

## **14 Seed Businesses and Companies:**

FEDCO Seeds Inc. (Maine); Adaptive Seeds, LLC (Oregon); Sow True Seed (North Carolina); Southern Exposure Seed Exchange (Virginia); Mumm's Sprouting Seeds (Saskatchewan); Baker Creek Heirloom Seed Co., LLC (Missouri); Comstock, Ferre & Co., LLC (Connecticut); Seedkeepers, LLC (California); Siskiyou Seeds (Oregon); Countryside Organics (Virginia); Wild Garden Seed (Oregon); Cuatro Puertas (New Mexico); Seed We Need (Montana); and, Interlake Forage Seeds Ltd. (Manitoba).

## **36 Agricultural Organizations:**

(with hundreds of thousands of total members)

Organic Seed Growers and Trade Association (OSGATA)  
Organic Crop Improvement Association International, Inc. (OCIA)  
OCIA Research and Education Inc.  
The Cornucopia Institute  
Demeter Association, Inc.  
Center for Food Safety  
Beyond Pesticides  
Navdanya International  
Maine Organic Farmers and Gardeners Association  
Northeast Organic Farming Association of New York  
Northeast Organic Farming Association/Massachusetts Chapter  
Northeast Organic Farming Association of New Hampshire  
Northeast Organic Farming Association of Rhode Island  
Northeast Organic Farming Association of Connecticut  
Northeast Organic Farming Association of Vermont  
Rural Vermont  
Ohio Ecological Food & Farm Association  
Florida Certified Organic Growers and Consumers Inc.  
Southeast Iowa Organic Association  
Northern Plains Sustainable Agriculture Society  
Mendocino Organic Network (California)  
Northeast Organic Dairy Producers Alliance  
Midwest Organic Dairy Producers Alliance  
Western Organic Dairy Producers Alliance  
Canadian Organic Growers  
Manitoba Organic Alliance  
Peace River Organic Producers Association (Alberta and British Columbia)  
Union Paysanne (Quebec)  
Family Farmer Seed Cooperative  
Sustainable Living Systems (Montana)  
Global Organic Alliance  
Food Democracy Now!  
Family Farm Defenders Inc.  
Farm-to-Consumer Legal Defense Fund  
Weston A. Price Foundation  
The Michael Fields Agricultural Institute

(For more information: please see: [www.EndTransgenicTrespass.org](http://www.EndTransgenicTrespass.org); [www.pubpat.org](http://www.pubpat.org), the Web sites of the organizational plaintiffs, or do an Internet search for "OSGATA v. Monsanto"