



ETC Group
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Canadian Supreme Court Tramples Farmers' Rights – Affirms Corporate Monopoly On Higher Life Forms

Civil society and farmers' organizations worldwide reacted with outrage to today's 5-4 decision by the Canadian Supreme Court, affirming Monsanto's right to prosecute farmers who are found to have GM crops growing on their land – whether they wanted them or not. Gene Giant Monsanto accused Saskatchewan farmers Percy and Louise Schmeiser of violating the company's patent on genetically modified canola (oilseed rape). Percy and Louise did not want Monsanto's GM canola seeds that invaded their property, and they did not try to benefit from the herbicide-tolerant trait in the GM seed (that is, they didn't spray Roundup weedkiller), but still Monsanto prosecuted them for patent infringement and demanded a portion of their income. The Schmeisers waged a courageous, 7-year battle against Monsanto that went all the way to the Supreme Court.

“The good news is that the Schmeisers don't have to pay a penny to Monsanto [reversing the lower courts' ruling], but the decision has grave implications for farmers and society everywhere the Gene Giants do business,” said Pat Mooney, Executive Director of ETC Group, one of the interveners in the case. Monsanto's GM seed technology accounted for over 90% of the global area planted in GM seeds last year.

“The decision not only undermines the rights of farmers worldwide, but also global food security and biological diversity. Ironically, the United Nations has declared tomorrow to be International Biodiversity Day. We should all be wearing black,” lamented Mooney.

Inflatable Patent: The Canadian Supreme Court decision effectively nullifies the Court's 2002 decision, which held that higher life forms, including plants, are not patentable subject matter. According to today's decision, a patent on a gene or cell can be infringed by a farmer's use of a plant or seed into which the patented material has been incorporated.

“Monsanto has won an inflatable patent today. They can now say that their rights extend to anything its genes get into, whether plant, animal or human,” said Pat Mooney. The Canadian Court goes even further than notoriously monopoly-friendly US patent law because it finds that a gene patent extends to any higher organism that contains the patented gene. “Under this ruling spreading GM pollution appears to be recognized as a viable corporate ownership strategy,” said Mooney.

The Court's ruling means that if a farmer is in possession of seeds or plants containing a patented gene, the burden is on the farmer to prove that s/he is not infringing the company's monopoly patent. "In Monsanto's world, we're all criminals unless a court rules otherwise," observes Silvia Ribeiro of ETC Group's Mexico office. "This will come as shocking news to indigenous farmers in Mexico, whose maize fields have been contaminated with DNA from genetically modified plants, and to farmers everywhere who are fighting to prevent genetically modified organisms from trespassing in their fields," said Ribeiro. Monsanto's newspaper ads in Chiapas, Mexico are already warning peasants that if they are found using transgenic seed illegally, they risk fines and even prison.

"No doubt Monsanto will say this is a victory for their stockholders, but its victory will be short lived. As always, Monsanto's hot air is the wind beneath our wings," said Pat Mooney. "This ruling will unite farmers and others opposed to corporate control of food and life, and galvanize civil society to take the issue out of the courts and back to politicians," said Mooney.

One of civil society's first major responses in North America will be expressed during the "Reclaim the Commons" meeting in San Francisco in about two weeks (June 5-10). This international activist gathering parallels the annual meeting of the Biotechnology Industry Organization (BIO) also in San Francisco.

Tell Monsanto Where to Go! ETC Group and others have initiated a letter-writing campaign. Anyone (rural or urban based) who fears that Monsanto's GM seeds have blown onto their property - as happened to the Schmeisers - can notify Monsanto that the company's uninvited genes may be trespassing.

Go here to take action: <http://www.etcgroup.org/article.asp?newsid=450>

Go here to view the text of the Canadian Supreme Court's judgement: <http://www.lexum.umontreal.ca/csc-scc/en/rec/html/2004scc034.wpd.html>

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The Action Group on Erosion, Technology and Concentration, formerly RAFI, is an international civil society organization headquartered in Canada. The ETC group is dedicated to the advancement of cultural and ecological diversity and human rights. www.etcgroup.org. The ETC group is also a member of the Community Biodiversity Development and Conservation Programme (CBDC). The CBDC is a collaborative experimental initiative involving civil society organizations and public research institutions in 14 countries. The CBDC is dedicated to the exploration of community-directed programmes to strengthen the conservation and enhancement of agricultural biodiversity. The CBDC website is www.cbdcprogram.org