

How Cartels Got the Right To Patent Life

A short history of U.S. law concerning food crops, shows how the traditional governing principle that seeds and genetic advances—as the means to life—are not appropriate for private patenting, was overturned over the past 30 years, on behalf of the private interests of the cartels increasingly dominating food commodities. The key developments:

In 1930, the Plant Patent Act (PPA) was passed, to give some marketing protection (such as exclusive rights to the name of a new rose) to those marketing flowers and ornamentals, but the PPA *specifically excluded any plant that could be considered as a food crop from any patent protection.*

However, in 1970, the Plant Variety Protection Act (PVPA), for the first time, gave some private rights for specific varieties of food crop seeds, in the form of certificates, not patents, for periods of up to 25 years. Still, farmers and researchers could save, replant, and experiment with the seeds.

Then came a 1980 Supreme Court decision approving

patenting of living organisms, opening the door to patenting of any life form under potentially total private control. In 1985, the U.S. Patent Office ruled that plants could be protected under the powerful concept of the industrial patent, meaning no exemptions for farmers or researchers. University-based, and other public science labs were devastated.

Over the 1990s, sweeping “patent rights to life” were granted, with Monsanto in the lead for soybeans and cotton. In 1998, Monsanto started its GMO alfalfa work with the University of Montana, from which Monsanto got its Roundup Ready alfalfa. Broad genetics patent rights, including for food grains, have also been included in the GATT/WTO “intellectual property rights” treaties.

Rearguard actions by Congress—including the 1994 Plant Variety Protection Act, and certain court suits, attempted to restrict this trend, but with little effect. (The PVPA set up a system of 20-year certificates for new plant varieties, whether or not they were genetically modified.)

Then in December 2001, a U.S. Supreme Court decision (*JEM Ag Supply, Inc. v. Pioneer Hi Bred International Inc.*, Dec. 10, 2001) gutted both the 1930 Plant Protection Act, and the 1994 PVPA, thus opening the door for any plant or animal to be patented under the strict Utility Patent law, no holds barred.

—Colin Lowry

that it would do, is cause the alfalfa to look like it had a little frost on it.

EIR: To underscore your point, people should know that in Argentina and Brazil, for example, Monsanto alone controls over 90% of all herbicide sales.

Trask: The question was asked in a legislative hearing in the capital, in Pierre, South Dakota, a few days ago, and the Secretary of Agriculture of South Dakota had assembled about 30 legislators. Monsanto and Forage Genetics had assembled about five or six or seven salaried employees to speak to the issues for the legislature, and for the South Dakota Secretary of Agriculture.

During the question and answer period, it was projected by Monsanto that Roundup Ready alfalfa will give producers a great boost and profitability in production. One of the legislators of South Dakota asked the question: What is the relative productivity, in pounds per acre, of Roundup Ready alfalfa compared to conventional, South Dakota Commons alfalfa seed?

The question was asked of two forage specialists from South Dakota State University—sent there by the Dean of Agriculture. And the answer to the question was, *there is no difference.*

So then, ask yourself: If it costs five times as much to buy it; and it causes you to start putting herbicide on, at the rate of 32 ounces per application, and recommending three applications per year; and there is no increased production, or pounds per acre; and you can't clean it out of the field once you have planted it, if you're in an area where alfalfa goes to seed, and it has the hard seed lying there—*then what's good about it?*

The obvious answer is that it was never GMO'd to help the world feed itself. It was GMO'd to give the license to control all alfalfa to Monsanto, because it's an inevitable reality in all states where seed is grown and harvested, that GMO genetics will spread across the state. Once it's planted in that state, the bees are going to carry that pollen with the hot winds, and it's going to spread—say two and a half miles per growing season—and you have gene drift spreading over all the alfalfa fields and seeds.

EIR: And I understand that Monsanto will assert something like, “If you don't want the wind to carry it, or bees to cross-pollinate, just create a buffer zone—ha, ha!” Meaning, take your land out of production.

Trask: Well, the Secretary of Agriculture, Larry Gabriel, reminded Monsanto that in their own publication—and they