DuPont Pioneer plans checks on soybean seed use

DAN PILLER - The Des Moines Register - Associated Press

Their mission may lack the gritty urban drama of "Law and Order" or "CSI," but investigators for Johnston-based DuPont Pioneer will be patrolling farm fields in Iowa next summer to see if farmers are complying with soybean seed patents.

They'll want to know if farmers are replanting soybean seeds a second year, in violation of a contract they sign when they purchase bags of soybean seeds for planting.

If necessary, plant samples will undergo a form of agricultural forensics through DNA laboratory analysis.

"The investigations will be random, and the investigators will sit down with the farmers and help them comply," said Randy Schlatter, manager of intellectual property for DuPont Pioneer.

Generations of farmers have saved seeds from one harvest to the next, in part to avoid buying new seed. But since the dawn of the biotechnology age in the late 1990s, seed companies have enforced their intellectual property rights.

Courts have generally backed the companies, but the U.S. Supreme Court agreed in October to consider how far the planting restrictions can go.

Monsanto, Pioneer's rival in the seed business, has sued some farmers over violations of its Roundup Ready genetic trait used in soybeans.

Schlatter hopes matters won't go that far with DuPont Pioneer customers. "We respect the growers, and want to keep them as friends and customers," he said.

Monsanto has sued to protect its Roundup Ready trait, which is widely licensed to DuPont Pioneer and other seed companies. The seed's DNA genetics have been modified to enable the soybean plant to thrive after Monsanto's Roundup herbicide has been applied.

But the patent for Roundup Ready expires next year.

DuPont Pioneer and other seed companies are thus left on their own to enforce other biotechnology or breeding patents that may be in a single soybean plant.

"Monsanto's been the bad guy for a long time, and now Pioneer has to step up," said soybean farmer Roy Bardole of Rippey.

"I know farmers won't like it. But at the end of the day, to use seed that you didn't pay for is stealing, pure and simple," he said.

Another farmer, George Nayor of Churdan, sued Monsanto unsuccessfully in 1999 over use of genetically modified seeds. He now uses only non-genetically modified seeds.

He said of DuPont Pioneer's pending inspections: "It's the same thing that Monsanto has been doing. A few people want to control all of agriculture."

DuPont Pioneer has hired a Canadian company, Agro Protection of Saskatoon, to provide the investigators.

Kerri Taylor of Agro Protection said it is not yet known how many investigators the company will hire or deploy in Iowa, the nation's leading soybean producer.

"They'll work sometime between planting and harvest," she said. "They have to be able to see the plant, and we don't want to bother farmers during harvest."

Taylor said most, but not all, of the investigators are retired law enforcement officials who develop expertise in seed technologies.

Schlatter recounted how North Dakota wheat farmers began replanting wheat seeds, causing a sharp drop in sales and profits for DuPont Pioneer in the wheat market.

"We had to give away the patent to North Dakota State University, and within a couple of years the university couldn't make it work so it abandoned all production," said Schlatter.

"So what happened was that a lot of acres originally devoted to wheat production were converted to corn and soybeans" he added.

In October, the U.S. Supreme Court agreed to hear the appeal of Indiana farmer Vernon Bowman, who was sued by Monsanto for patent infringement. Bowman didn't save the Roundup Ready seeds he bought, but he purchased a mix of cheaper seeds from a grain elevator.

Some of those soybean seeds contained Roundup Ready technology. He saved those seeds for replanting.

Soybeans will be the focus of the patent enforcement, rather than corn. Soybeans are a varietal plant, which means that their seeds can be replanted with less genetic trait damage in following generations.

Hybrid corn, conversely, cannot be replanted a second year without significant loss of vigor.

That has been the trademark of commercial hybrids since Pioneer founder Henry A.

Wallace began introducing the new seeds in 1926.

DuPont Pioneer's investigations will be the next skirmish in what has been a long-running battle over genetically modified, or biotech, seeds.

California voters this month rejected a ballot proposition that would have required labeling of many, but not all, foods that use products that come from biotech seeds.

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