



Success for Monsanto in Federal Court

Monsanto Canada v. Eugene and Clifford Wowdzia, Lavoy, Alberta

On March 12, 2013 the Federal Court of Canada issued a judgment against Eugene Wowdzia and Clifford Wowdzia, and their farm corporations, for the unauthorized growing of Genuity® Roundup Ready® canola.

The Court judgment includes an admission from Eugene and Clifford Wowdzia that they deliberately infringed Monsanto's patent by growing, harvesting and selling canola that they knew was protected by Monsanto's patent. All other terms of the judgment were agreed to by the Wowdzias, including the requirement to pay Monsanto a monetary award as a result of their infringement and they had to pay the costs associated with their defence. While Monsanto's preference with respect to the enforcement of its intellectual property is always to try to resolve matters without court action, it was not possible in this case due to the uncooperative actions of the farmers involved.

Immediately after commencing the lawsuit in August 2012, Monsanto sought, and was granted, an 'inspection order' and a 'preservation order' from the Court. The evidence filed in support of that motion included an affidavit from a Field Check representative which stated that he made numerous attempts in 2011 and 2012 to communicate with the defendants and arrange a Technology Protection Field Check. Those attempts were unsuccessful. The affidavit stated that the defendants did not return telephone calls, and did not make themselves available so that the Field Check could be conducted.

Monsanto was able to lawfully gather evidence in the spring and summer of 2012 to support commencing the lawsuit for patent infringement by observing the Wowdzias' farm operations from public land.

In its inspection and preservation order, the Court required that Eugene and Clifford Wowdzia allow Monsanto's representatives to access their canola fields to take samples of canola plants, pods and seeds for testing. The order prevented the Wowdzias from harvesting their canola until this inspection and sampling was completed. The order also required the defendants to identify any additional owned or rented lands used by them to grow canola in 2012.

The Wowdzias filed a statement of defence in September 2012 denying that they had infringed Monsanto's patent. Among other things, their statement of defence alleged that they had tried to plant their canola crop at a seeding rate of approximately 1¾ to 2 pounds per acre. The case did not go to trial, and this assertion was not proven in court.

The litigation was resolved by a judgment, the terms of which were agreed to by the Wowdzias. The judgment includes an admission that the defendants' infringed Monsanto's patent by growing, harvesting and selling canola that they knew was protected by Monsanto's patent. The judgment also includes an injunction that prevents the individual defendants and their farming corporations from planting, growing, cultivating and/or harvesting any quantities of canola seeds or plants that are protected by Monsanto's patent.

Monsanto is in the business of developing innovative products to improve agriculture for our farmer customers. We are committed to maintaining a level playing field for our valued customers who pay to use Monsanto's patented technology. When unauthorized use of the patented technology is discovered, Monsanto is always open to discussing a reasonable settlement. Monsanto is not in the business of suing farmers, but will do so if necessary to protect its business and the expectations of its customers.