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## Soy Beans: Brought to You By Monsanto (/full-blog/2010/11/soy-beans-brought-to-you-by-monsanto.html)

(<http://www.personal.psu.edu/mtm5005/blogs/mtm5005/biodiesel-soybeans.jpg>) **By Nathan Kolb, Staff Member**

In 1996, Monsanto first introduced Roundup Ready soybeans, a crop which would come to dominate the soybean production industry. Roundup Ready soybeans are genetically engineered soybeans that are resistant to the glyphosate based herbicide, Roundup. By planting Roundup Ready soybeans, a farmer can easily and efficiently control weeds by simply spraying Roundup, which kills the weeds, but due to the Roundup Ready

trait in the beans, leaves the soybeans as healthy as ever, reducing overall costs and increasing profit potential. MONSANTO, <http://www.monsanto.com/products/Pages/soybean-seeds.aspx> (last visited Oct. 6, 2010).

Monsanto has patented two specific traits which make Roundup Ready soybeans what they are. These two patents are U.S. Patent No. 5,633,435 (filed Sept. 13, 1994), and U.S. Patent No. 5,352,605 (filed Oct. 28, 1993). Together, these patents protect the genetic traits that are responsible for Roundup Ready soybeans' ability to resist the effects of glyphosate, and, as a result, Roundup herbicide. *Monsanto Co. v. McFarling*, 488 F. 3d 973, 976 (Fed. Cir. 2007). Roundup Ready soybeans have come to dominate soybean production in the United States. The National Agricultural Statistics Service released its yearly findings on June 30, 2010, in which they reported



that 93 percent of the total soybean acreage in the United States was planted with herbicide resistant seed varieties, an increase of 2 percent from 2009. National Agricultural Statistics Service Acreage Report for 2010, 34 (2010), available at <http://usda.mannlib.cornell.edu/usda/current/Acre/Acre-06-30-2010.pdf>. The Roundup Ready traits patented by Monsanto dominate these herbicide resistant varieties, giving Monsanto an exorbitant amount of control over soybean production in this country.

Prior to purchasing Roundup Ready soybeans, Monsanto, through their agent seed companies, requires producers to sign a Technology Agreement. These agreements limit the usage of the soybeans to one growing season, precluding a farmer from saving Roundup Ready soybeans for use as seed the following year. *Monsanto Co. v. Strickland*, 604 F. Supp. 2d 805, 808 (D. S.C. 2009). By requiring this agreement, Monsanto not only protects its patent, but also ensures its control of the soybean seed market. This agreement forces farmers to continue to purchase Roundup Ready soybeans from Monsanto and their subsidiary seed companies, and pay the requisite licensing fees which accompany said purchase.

Monsanto has proven extremely zealous in their enforcement of this Technology Agreement. Rumors constantly swirl about Monsanto's employment of Pinkerton Security and Consulting, and other like companies, as spies to locate farmers who may be infringing upon Monsanto's patents by saving Roundup Ready soybeans to use as seed. It is hard to say whether or not these rumors have any real substance to them. However Monsanto obtains the information, one thing is certain: Monsanto is not reluctant to file suit against any farmers who it thinks are in violation of the Technology Agreement. *Monsanto Co. v. McFarling*, 488 F. 3d 973, 976 (Fed. Cir. 2007), and *Monsanto Co. v. Strickland*, 604 F. Supp. 2d 805, 808 (D. S.C. 2009), are two typical examples of such suits. *Monsanto Co. v. Parr*, 545 F. Supp. 2d 836 (D. N.D. Ind. 2008), provides a further example of the length Monsanto will go to in order to protect its patents. In *Parr*, Monsanto brought suit against defendant Parr for operating a seed cleaning business. Monsanto claimed the defendant was cleaning Roundup Ready soybeans, thereby enabling farmers to plant the seed the following year, in violation of their Technology Agreement. As a result of this suit, the court enjoined Parr from cleaning soybeans that contained the Roundup Ready trait.

Something needs to change in order to combat the increasingly large influence that Monsanto has over soybean production in the United States. Monsanto is forcing farmers to pay their licensing fees to plant Roundup Ready soybeans and filing suit against anyone who violates their Technology Agreement. They are enjoining seed cleaners from even cleaning Roundup Ready soybeans claiming that they are inducing patent infringement. At this point, nothing short of an Anti-Trust suit can ease Monsanto's ever-tightening grip on soybean production. Fortunately, there are already rumors of a Justice Department investigation into Roundup Ready soybeans and possible anti-competitive behavior. Jack Kaskey, *Monsanto's Roundup Ready Soybeans Probed by Justice*, Bloomberg Businessweek, Jan. 14, 2010, available at <http://www.businessweek.com/news/2010-01-14/monsanto-says-investigators-request-more-information-update1-.html>.

Even if an anti-trust suit does not come about, at least there is light at the end of the tunnel. Monsanto's patent on Roundup Ready soybeans expires in 2014, at which point farmers will be able to save Roundup Ready seed from the prior year's harvest. At least, that is, until Roundup Ready 2 is developed. (Available for the 2011 season, from Monsanto!)

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