

FILED

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA

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CLERK  
FOR THE UNITED DISTRICT  
OF INDIANA

LAFAYETTE DIVISION

MONSANTO COMPANY and )  
MONSANTO TECHNOLOGY, LLC )  
Plaintiffs )  
-vs- )  
MAURICE PARR )  
Defendant )

CASE NO.:

4:07CV0008AS

COMPLAINT

COME NOW the Plaintiffs, Monsanto Company and Monsanto Technology, LLC (hereinafter referred to as "Monsanto") through undersigned counsel, and for its Complaint against Maurice Parr (hereinafter "Parr" or "Defendant") makes the following allegations:

THE PLAINTIFFS

1. Monsanto Company is a company organized and existing under the laws of the State of Delaware with its principal place of business in St. Louis, Missouri. It is authorized to do business in Indiana and in this judicial district.
2. Monsanto Technology, LLC is a company organized and existing under the laws of the State of Delaware with its principal place of business in St. Louis, Missouri.

THE DEFENDANT

3. Defendant, Maurice Parr, is an individual who has attained the age of majority and is a resident and domiciliary of Tippecanoe County, Indiana.

## JURISDICTION AND VENUE

4. Subject matter jurisdiction is conferred upon this court pursuant to 28 U.S.C. §1331, in that one or more of Monsanto's claims arise under the laws of the United States, as well as 28 U.S.C. §1338, granting district courts original jurisdiction over any civil action regarding patents.

5. Venue is proper in this district pursuant to 28 U.S.C. §1400 as Defendant resides in this judicial district.

## GENERAL ALLEGATIONS

6. Monsanto Company developed the Roundup Ready® biotechnology which allows plants to express resistance to glyphosate-based herbicides such as Roundup® branded herbicides.

7. This biotechnology has been utilized by Monsanto Company in soybeans. The genetically improved soybeans are marketed by Monsanto Company as Roundup Ready® soybeans.

8. Monsanto's Roundup Ready® biotechnology is protected under United States Patent Numbers 5,352,605 and RE 39,247 E, which are attached hereto as Exhibits "A" and "B". The 5,352,605 and RE 39,247 E patents (commonly referred to as the '605 and '247 patents, respectively) were issued prior to the events giving rise to this action.<sup>1</sup>

9. Monsanto Technology, LLC is and has been the owner of the '605 and '247 patents prior to the events giving rise to this action.<sup>2</sup>

10. Monsanto Company is and has been the exclusive licensee of the '605 and '247 patents from Monsanto Technology, LLC prior to the events giving rise to this action.

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<sup>1</sup> U.S. Patent No. 5,633,435 was reissued as U.S. Patent No. RE 39,247 E on August 22, 2006.

<sup>2</sup> Monsanto Technology, LLC is a holding company for the intellectual property rights of Monsanto Company.

11. Monsanto Company licenses the use of Roundup Ready® biotechnology to soybean growers at the retail marketing level through a limited use license commonly referred to as a Technology Agreement.

12. Among other things, the express terms of the limited use license prohibits soybean growers from saving harvested Roundup Ready® soybeans for planting purposes, or from selling, transferring or supplying saved Roundup Ready® soybeans to others for planting. The use of the seed is limited to the production of a single commercial crop.

13. Monsanto does not authorize the planting of saved (sometimes referred to as bin run and/or brown bag) Roundup Ready® soybeans. The planting of saved Roundup Ready® soybean seed is a direct infringement of Monsanto's patent rights, including the '605 and '247 patents.

14. Defendant owns and operates a mobile seed cleaning business in Lafayette, Indiana.

15. Using a mobile seed cleaner, the Defendant goes to farms throughout the state of Indiana, cleaning various kinds of seed, including soybean seed. Seed cleaning involves the removal of dirt, weed seeds, and other unwanted materials from the soybean seed. Removing such seed "trash" is necessary for problem-free, accurate planting.

16. Defendant has been provided with actual notice of Monsanto's patents on the Roundup Ready® biotechnology.

#### **COUNT ONE-INDUCEMENT TO INFRINGE**

17. Each and every allegation set forth in the above numbered paragraphs is hereby incorporated by reference just as it were set forth hereunder.

18. Defendant has knowingly cleaned saved Roundup Ready® soybean seed for growers to replant. The saved Roundup Ready® soybean seed that Defendant has cleaned has been

planted by soybean growers without Monsanto's authorization. The growers' planting of the saved seed containing the Roundup Ready® trait is a direct infringement of Monsanto's '605 and '247 patents.

19. Upon information and belief, Defendant has intentionally misled growers into believing that their cleaning and planting of saved Roundup Ready® seed would not infringe Monsanto's patent rights, with the purpose of inducing them to clean more of their Roundup Ready® soybeans, for his own pecuniary gain.

20. Defendant has actively induced soybean growers to infringe Monsanto's patent rights in Roundup Ready® soybean seed by aiding, abetting, encouraging, or causing the growers to infringe Monsanto's '605 and '247 patents, in contravention of 35 U.S.C. § 271(b).

21. Pursuant to 35 U.S.C. § 283, Monsanto is entitled to injunctive relieve in accordance with the principles of equity to prevent Defendant from continuing to induce infringement of Monsanto's patent rights.

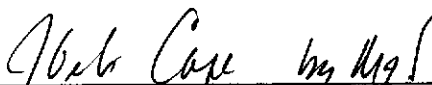
22. Pursuant to 35 U.S.C. § 284, Monsanto is entitled to damages adequate to compensate for the infringement, although in no even less than a reasonable royalty, together with interest and costs to be taxed to the infringer. Further, damages should be trebled pursuant to 35 U.S.C. § 284 in light of the Defendant's knowing, willful, conscious, and deliberate actions taken to aid, abet, encourage, and cause the infringement of the patent rights at issue.


23. Monsanto should recover its reasonable attorney's fees pursuant to 35 U.S.C. §285 because this is an exceptional case.

**WHEREFORE**, Monsanto Company and Monsanto Technology, LLC pray that process and due for of law issue to Maurice Parr, requiring Defendant to appear and answer all and singular the allegations of the Complaint and that after due proceedings are had, that there be

judgement entered in favor of Monsanto and against Defendant, providing the following remedies to Monsanto:

- a) Entry of judgement for damages, together with interest and costs, to compensate Monsanto for the Defendant's inducement of direct infringement of the '605 and '247 patents;
- b) Trebling of damages awarded for the inducement of infringement of patents together with reasonable attorney's fees;
- c) Entry of a permanent injunction against the Defendant to prevent the Defendant from cleaning and preparing seed which contains Monsanto's patented traits for replanting;
- d) Entry of judgement for costs, expenses, and reasonable attorney's fees incurred by Monsanto; and
- e) Such other relief as the Court may deem appropriate.

  
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