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↓ -100.90	-0.94%	↓ -28.75	-1.24%	↓ -12.43	-1.08%	↓ -0.06	-1.61%	↓ -12.50	-1.09%	↓ -1.39	-1.75%	↓ -42.83	-0.78%

Court rules for Monsanto, antitrust case remains

By CHRISTOPHER LEONARDAP posted: 9:41 PM 01/16/10

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ST. LOUIS -A legal ruling says DuPont violated its contract with rival Monsanto by developing genetically modified soybeans created with Monsanto's technology, but leaves open DuPont's challenge of the contract on antitrust grounds.

The ruling in St. Louis federal court is the latest turn in a lawsuit between the world's two biggest seed companies. At issue is how much freedom Monsanto Co.'s competitors have to develop crops containing their own biotech traits using Monsanto's patented Roundup Ready gene, which is inserted in the vast majority of U.S. corn and soybean crops.

The Roundup Ready gene makes crops resistant to its Roundup herbicide, making weed control cheaper and easier for farmers because they can spray the herbicide without hurting their crop. The trait has become the industry standard since Monsanto introduced it in 1996.

Monsanto sued DuPont last spring, claiming it was illegal for DuPont to sell its new line of biotech seeds called Optimum GAT. That line of seeds adds a new DuPont gene to the older line of Roundup Ready corn and soybean plants that DuPont developed under a license with Monsanto.

U.S. District Judge E. Richard Webber said in Friday's ruling that Monsanto's licensing agreement clearly prohibits DuPont from inserting its Optimum GAT gene into corn and soybean plants with Monsanto traits.

But Webber said his ruling was narrow, and didn't consider whether Monsanto has the right under antitrust laws to restrict how competitors breed and sell plants with Monsanto traits.

DuPont is challenging its licensing agreement with Monsanto on antitrust grounds, in the midst of a U.S. Department of Justice antitrust investigation into Monsanto that is examining whether there is anticompetitive behavior in the seed industry.

"This litigation is just beginning; we will now vigorously pursue our antitrust, license and patent fraud claims," DuPont Senior Vice President and General Counsel Thomas L. Sager said in a statement Saturday.

Monsanto spokesman Lee Quarles said DuPont's claims of antitrust violations in the contract are a "continued smoke screen and effort to obscure the significance of the court's ruling on their license violation."

"As we've stated clearly over the last several months, DuPont negotiated and signed a contract with a specific set of rights, at the financial terms they preferred, and the rights they licensed did not include making" Optimum GAT, Quarles said in an e-mail Saturday.

Monsanto announced this week that the Justice Department demanded internal documents related to the company's soybean business. Quarles said the company has done nothing wrong and is cooperating with the department, providing the millions of pages of documents it requested.

DuPont spokesman Dan Turner said Friday's ruling won't change or delay the company's efforts to commercialize its Optimum GAT seeds, which the company says will be an alternative to Monsanto's products.

The Optimum GAT launch has already been delayed for a years because of regulatory and research glitches. DuPont announced in December that its Optimum GAT soybean launch will be delayed from 2011, to 2013 or 2014 because of changes in regulatory policy in key import markets. Similarly Optimum GAT corn was delayed from 2010 until the middle of the decade because of quality concerns.

(This version CORRECTS judge's name to add first initial)

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