



For Immediate Release:

CSTA Addresses Seed Saving Issue in Supreme Court Appeal

OTTAWA (January 23, 2004) – The Canadian Seed Trade Association (CSTA), representing the interests of 165-member companies appeared before the Supreme Court of Canada this week as an intervener in the Schmeiser vs. Monsanto Appeal. In fact, Dr. Bill Leask, Executive Vice President of CSTA states that, “The CSTA was the only intervener in the case who was called upon by the Supreme Court to provide expertise by elaborating on a specific issue.” The CSTA was asked to provide details on Issue 3 in its Factum: whether or not there is any implied licence to save and plant seeds containing patented genes and cells.

On January 20, 2004, the Supreme Court of Canada heard Percy Schmeiser’s appeal of a Federal Court of Appeal decision that found the Bruno, Saskatchewan farmer liable for violating Monsanto’s Roundup Ready gene patent in canola. This was the first patent infringement case in Canada involving Monsanto’s patented canola technology to be heard by the Federal Court of Canada and challenging the validity of patent rights for lower life forms under the Canadian Patent Act.

The CSTA presentation to the Supreme Court on January 20th included the following specific points:

- ❑ There is no provision in the Patent Act which creates an implied licence for farmers to save and plant seeds
- ❑ International treaties and discussions recognize and support the practice of seed saving and exchanging seed, making provisions for efforts aimed at the conservation and preservation of plant genetic resources
- ❑ Saving seed of a bred plant variety that does not occur naturally, for future planting in a commercial farming operation does not constitute genetic resource conservation or preservation work

Following the announcement of the Schmeiser appeal to the Supreme Court in late 2003, the CSTA found itself in a position where it had to intervene. “The CSTA saw its role in participating in the Supreme Court hearing as an intervener as defending the need for strong intellectual property protection measures and the scientific method used to develop new technology for the seed industry so that farmers can benefit from continued access to leading technology,” said Leask.

The Supreme Court trial judgment could have a serious impact on intellectual property protection, investment in seed and agricultural research and severe implications on the future of biotechnology in plants and seeds in Canada.

“In the absence of appropriate protection mechanisms for seed and plant inventions, Canada may be unable to attract and maintain a thriving agricultural biotechnology research community. Without intellectual property protection, new crop technologies from around the world may no longer be commercialized in Canada. It’s questionable whether Canadian farmers could continue to be competitive when marketing their commodities on the world markets if they did not have access to leading seed technology,” Leask emphasized.

According to the International Seed Federation (ISF) the most appropriate protection for biotechnological inventions is through patents and the CSTA concurs. Furthermore, the ISF considers that Plant Breeders’ Rights (PBR) and patent protection for biological inventions are efficient intellectual property protection systems and effectively co-exist in many countries around the world.

Tools for the protection of intellectual property rights are available in many other countries and are essential to the well-being of Canadian agriculture. Plant breeders and researchers develop numerous new, competitive varieties leading to higher yields, improved drought resistance, pest protection and value-added traits. Canadian seed companies make these developments possible through significant investments, such as the estimated \$38 million during 2002 into research and development operation expenditures and nearly \$67 million into infrastructure investments to conduct research and development activities. Such investments are dependent upon effective intellectual property protection mechanisms, such as PBR and patent protection to sustain them.

Headquartered in the nation’s capital, the CSTA represents the interests of 165 member companies engaged in all aspects of seed research, production and marketing, both domestically and internationally. As a member organization consisting of plant breeders, wholesalers, retailers and others, CSTA is committed to fostering an environment conducive to researching, developing, distributing and trading seed and associated technologies – with the goal of bettering the choices and successes of its members and their customers.

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