
Twenty States Climb Aboard Syngenta GMO Corn Class Actions

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Law360, Los Angeles (December 18, 2014, 8:37 PM ET) -- Illinois, Colorado, Minnesota and 17 other states have joined class actions in Kansas and Missouri filed by corn farmers, grain exporters and others who accuse Syngenta Corp. of "tainting" the U.S. corn supply with genetically modified seed before China gave import approval.

The three firms that filed their complaints in November amended them on Thursday to include the 20 states, which represent 86 percent of the corn planted in the U.S. this year, they said in a joint statement Thursday.

The other states are Alabama, Arkansas, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Mississippi, Missouri, Montana, Nebraska, North Dakota, Oklahoma, South Dakota, Tennessee and Wisconsin.

Don Downing of Gray Ritter & Graham PC, which is representing the plaintiffs, said in a Thursday statement that "U.S. corn growers are experiencing significant economic losses due to Syngenta's bringing its genetically modified corn to market prematurely. The company was well aware of the catastrophic financial harm their actions could bring to U.S. corn growers."

An attorney for the plaintiffs told Law360 on Thursday that the amended complaints will be consolidated into recently established multidistrict litigation, which involves about 150 cases.

Switzerland-based Syngenta commercialized the trait for the 2011 growing season under the brand name Viptera. A lawsuit filed against the company in Arkansas federal court by Stracener Farming Co. claims that Syngenta misled farmers into believing that approval from China was imminent, but the trait remains unapproved.

Syngenta's premature release of Viptera corn cost the U.S. corn market somewhere between \$1 billion and \$3 billion due to the rejection and resulting seizures of U.S. containers and cargo ships transporting U.S. corn to China, Stracener's suit claims.

Other proposed class actions, filed by Volnek Farms Inc. and Hadden Farms Inc., claim that Syngenta offered farmers a "side-by-side program," which encouraged them to plant Viptera corn adjacent to other corn seed. But in so doing, the farmers risked co-mingling the GMO corn with the non-GMO corn, thereby making it likely that Chinese regulatory officials would reject U.S. shipments of corn.

Hadden Farms' suit says that the U.S. Department of Agriculture determined that China purchased approximately 5 million tons of U.S. corn in 2012–2013, making China the third-largest export market for U.S. corn. Since November 2013, however, Chinese imports for U.S. corn have decreased by an estimated 85 percent, that suit says.

The plaintiffs in the suits include corn farmers, grain silos, exporters, brokers, resellers and others involved in the chain of distribution for corn.

The USDA authorized the introduction of the trait in April 2010, by which time the U.S. Environmental Protection Agency and the U.S. Food and Drug Administration had already approved the trait, though the Chinese government has not yet approved it.

Earlier this month, the U.S. Judicial Panel on Multidistrict Litigation centralized more than 150 suits over Syngenta's decision to commercialize corn seeds with a genetically modified trait, known as MIR162, that gives the plants increased resistance to certain insects.

The panel said it chose the District of Kansas largely because the MDL could then be assigned to U.S. District Judge John W. Lungstrum, who was "well-versed in the nuances of complex, multidistrict litigation."

The new multistate lawsuits further allege that the company was aware of the potential damages from its actions but sold the seeds with MIR162 anyway, the plaintiffs' attorneys said in their Thursday statement.

Attorneys and representatives for Syngenta didn't immediately respond to requests for comment late Thursday.

The plaintiffs are represented by William B. Chaney of Gray Reed & McGraw; Don M. Downing of Gray Ritter & Graham PC; and Scott A. Powell of Hare Wynn Newell & Newton.