US Court tilts toward Monsanto in battle with farmer

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The US Supreme Court appeared on Tuesday to side with Monsanto against an Indiana farmer accused of having pirated the genetically-modified crops developed by the agribusiness giant.

At stake is whether farmers can reproduce genetically-modified seeds on their own without paying for the technology again each growing season, which Monsanto says would stifle biotechnology innovation.

Critics counter that Monsanto is asserting ownership over a now nearly ubiquitous life form, which would allow it to share in the occasional profits of struggling farmers but insulate it from the risk they face.

Vernon Hugh Bowman, the 75-year-old soybean farmer at the center of the controversy, claims he acted in good faith and poses no threat to the multi-billion dollar genetically modified seed industry.

"I've done nothing wrong," Bowman said before the Supreme Court on Tuesday. "If I had done something wrong, no matter how big, they would have the right to come after me."

In a lawsuit filed in 2007, Monsanto accused Bowman of infringing on its intellectual property rights by replanting, cultivating and selling herbicide-resistant soybean seeds it spent more than a decade developing.

The patented seed, which allows farmers to aerially spray Monsanto-

made Roundup herbicide over their entire fields, was invented in 1996 and is now grown by more than 90 percent of the 275,000 US soybean farmers.

Bowman claims to have respected his contract with Monsanto and purchased new Roundup Ready seeds each year for his first planting.

But he says hard times forced him to purchase a cheaper mixture of seeds from a grain elevator starting in 1999, which he used for his second planting.

The mixture included Roundup Ready soybeans, which Bowman was able to isolate and replant from 2000 to 2007.

Monsanto attorney Seth Waxman argued that Bowman was able to profit from the seed giant's technology without having to pay for it, comparing the case to software piracy.

"Without the ability to limit reproduction of soybeans containing this patented trait, Monsanto could not have commercialized its invention, and never would have produced what is, by now, the most popular agricultural technology in America," he argued.

"Having committed hundreds of millions of dollars in 13 years to develop this technology, in the very first sale of an article that practices the patent, it would have exhausted its rights in perpetuity."

Monsanto, which won earlier rulings in lower courts, appeared to have also convinced the nation's highest judicial body.

"Why in the world would anybody spend any money to try to improve the seed if as soon as they sold the first one anybody could grow more and have as many of those seeds as they want?" Chief Justice John

Roberts asked.

Justice Stephen Breyer, a more progressive jurist, appeared to agree.

"You know, there are certain things that the law prohibits. What it prohibits here is making a copy of the patented invention. And that is what (Bowman) did," he said.

Bowman's attorney, Mark Walters, countered that extending Monsanto's rights to the less reliable grain elevator seed would allow it to profit from the crop without sharing the farmer's risk.

In Monsanto's legal reasoning, he said, "it doesn't matter how you come into possession with these seeds... Any cell division is patent infringement."

"So what they're essentially asking for is for the farmers to bear all the risks of farming, yet they can sit back and control how that property is used."

He added that the use of grain elevator seed by small-scale farmers like Bowman is "never going to be a threat to Monsanto's business."

After the hearing, Walters told reporters that Bowman—from whom Monsanto has demanded $85,000 in damages—is in dire economic straits.

But the attorney admitted that the court may rule according to the "impact of patterns of investment."

The court is expected to rule on the case by the end of June.