**From the Monsanto Web site** (look under “Newsroom,” then “Viewpoints,” then “Myths,” then “Myth: Monsanto Sues Farmers When GM is Accidentally in Their Fields” **:** <http://www.monsanto.com/newsviews/pages/gm-seed-accidentally-in-farmers-fields.aspx>

**Myth: Monsanto Sues Farmers When GMOs or GM Seed is Accidentally in Their Fields**

***Myth: Monsanto sues farmers when GM seed is accidentally in their fields.***

***Fact:*** *Monsanto has* ***never*** *sued a farmer when trace amounts of our patented seeds or traits were present in the farmer’s field as an accident or as a result of inadvertent means.*

It is truly as simple as this: Monsanto has a long-standing public commitment that “it has never been, nor will it be, Monsanto’s policy to exercise its patent rights where trace amounts of our patented seeds or traits are present in a farmer’s fields as a result of inadvertent means.”

The misperception that Monsanto would sue a farmer if GM seed was accidentally in his field likely began with [Percy Schmeiser](http://www.monsanto.com/newsviews/Pages/percy-schmeiser.aspx), who was brought to court in Canada by Monsanto for illegally saving Roundup Ready® canola seed. Mr. Schmeiser claims to this day the presence of Monsanto’s technology in his fields was accidental – even though three separate court decisions, including one by the Canadian Supreme court, **concluded his claims were false.**

**In 2012-2013, two separate courts acknowledged that Monsanto has not taken any action – or even suggested taking any action – against organic growers because of cross-pollination.**

The Organic Seed Growers and Trade Association (OSGATA) and others filed a lawsuit against Monsanto in an effort to invalidate Monsanto’s patents because of alleged fears of Monsanto exercising its patent rights and suing farmers if crops were inadvertently cross-pollinated. The U.S. District Court for the Southern District of New York dismissed the case and commented:

* There was no case or controversy in the matter because Monsanto had not taken any action or even suggested taking any action against any of the plaintiffs.
* Monsanto had a long-standing public commitment that “it has never been, nor will it be, Monsanto policy to exercise its patent rights where trace amounts of our patented seeds or traits are present in a farmer’s fields as a result of inadvertent means.”
* Plaintiffs’ allegations were “unsubstantiated … given that not one single plaintiff claims to have been so threatened.”
* Plaintiffs had “overstate[d] the magnitude of [Monsanto’s] patent enforcement,” noting that Monsanto’s average of roughly 13 lawsuits per year “is hardly significant when compared to the number of farms in the United States, approximately two million.”

For information on Monsanto’s use of patents to protect scientific innovation, please visit the [Innovation and Patents](http://www.monsanto.com/newsviews/Pages/patents.aspx) section of our web site.

**Percy Schmeiser**

If you’ve heard much about agricultural biotechnology, you’ve potentially heard of Percy Schmeiser. Schmeiser is a Canadian canola farmer who Monsanto successfully sued for patent violation after unlicensed Roundup Ready canola was found growing on his farm.

Starting from when we began our efforts to settle the matter out-of-court, Schmeiser claimed the biotech plants in his fields got there by accident and were not planted by him. It’s a claim he continues to make to this day. He’s become something of a folk hero in some circles, playing the role of David to Monsanto’s Goliath. He’s often quoted in the press and is a frequent speaker around the world at events hosted by groups opposed to agricultural biotechnology.

The truth is Percy Schmeiser is not a hero. He’s simply a patent infringer who knows how to tell a good story. Unlike his neighbors, and the vast majority of farmers who plant patented seeds, Schmeiser saved seed that contained Monsanto’s patented technology without a license. As indicated by the trial court in Canada, the seed was not blown in on the wind nor carried in by birds, and it didn’t spontaneously appear. Schmeiser knowingly planted this seed in his field without permission or license. By doing so, he used Monsanto’s patented technology without permission. In fact, the courts determined this in three separate decisions.

Consider just a few of the facts.

In the first trial, Schmeiser claimed in 1997 he sprayed Roundup on three acres of his canola field because he was suspicious it might be Roundup tolerant. If his story were true, this would kill any canola plants other than those tolerant to Roundup. After killing more than half his crop, he then harvested the remaining plants that did not die and segregated this seed. The next year (1998) he had this seed treated and used this seed to plant 1,030 acres on his farm.

Why would he harvest seed that he says he didn’t want on his farm and deliberately plant it the following year?

As expressed in the Canadian Supreme Court judgment documents:

Mr. Schmeiser complained that the original plants came onto his land without his intervention. However, he did not at all explain why he sprayed Roundup to isolate the Roundup Ready plants he found on his land; why he then harvested the plants and segregated the seeds, saved them, and kept them for seed; why he planted them; and why, through his husbandry, he ended up with 1,030 acres of Roundup Ready canola which would have cost him $15,000.

Schmeiser didn’t have a few Roundup Ready plants in his field. His fields had mostly Roundup Ready plants in them–far more than could have ever grown there by accident. Again, in the words of the Canadian court judgment:

…tests revealed that 95 to 98 percent of this 1,000 acres of canola crop was made up of Roundup Ready plants. …The trial judge found that “none of the suggested sources [proposed by Schmeiser] could reasonably explain the concentration or extent of Roundup Ready canola of a commercial quality” ultimately present in Schmeiser’s crop.

Consider Schmeiser’s legal history with this situation:

* Schmeiser was first found to have violated Monsanto’s patent in 2001 when the federal court found he “knew or ought to have known” he had saved and planted Roundup Ready seed and infringed Monsanto’s Roundup Ready patented technology. You can read the original Canadian court decision at <http://decisions.fct-cf.gc.ca/en/2001/2001fct256/2001fct256.html>.
* He lost again upon appeal in 2002, when the three-member Canadian Federal Court of Appeal unanimously dismissed *all 17* grounds of appeal submitted for Mr. Schmeiser. Read the entire decision at <http://decisions.fca-caf.gc.ca/en/2002/2002fca309/2002fca309.html>.
* He lost again, in 2004, in an appeal to the Canadian Supreme Court--exhausting all his legal options. See the court judgment document at <http://scc.lexum.org/decisia-scc-csc/scc-csc/scc-csc/en/item/2147/index.do?r=AAAAAQAJc2NobWVpc2VyAAAAAAE>

During his frequent lecture tours, Schmeiser continues to say he didn’t plant Roundup Ready seeds. He’s even stated he *won* the case in the Canadian Supreme Court. What he doesn’t say is that three separate court decisions, including the Supreme Court decision, say exactly the opposite.

<http://www.monsanto.com/newsviews/pages/percy-schmeiser.aspx>