

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

CHARLES LEX,

Plaintiff,

v.

BAYER CROPSCIENCE LP; BAYER  
CROPSCIENCE, INC.; CORTEVA INC.;  
CARGILL INCORPORATED; BASF  
CORPORATION; SYNGENTA  
CORPORATION; WINFIELD SOLUTIONS,  
LLC; UNIVAR SOLUTIONS, INC.;  
FEDERATED CO-OPERATIVES LTD.;  
CHS INC.; NUTRIEN AG SOLUTIONS  
INC.; GROWMARK INC.; SIMPLOT AB  
RETAIL SUB, INC.; AND TENKOZ INC.,

Defendants.

Case No. 3:21-cv-122

**CLASS ACTION COMPLAINT**

**JURY TRIAL DEMANDED**

**TABLE OF CONTENTS**

**I. NATURE OF THE ACTION**..... 1

**II. JURISDICTION AND VENUE**..... 3

**III. PARTIES** ..... 4

    A. Plaintiff ..... 4

    B. The Manufacturer Defendants ..... 5

    C. The Wholesaler Defendants ..... 6

    D. The Retailer Defendants ..... 6

**IV. TRADE AND COMMERCE** ..... 8

**V. THE RELEVANT MARKETS**..... 8

**VI. FACTUAL ALLEGATIONS**..... 8

    A. Industry Background..... 8

    B. The Crop Inputs Market is Characterized by a Lack of Pricing and Industry Transparency, Which Defendants Capitalize Upon in Their Business Practices. .. 9

    C. The Rise of Electronic Crop Inputs Sales Platforms Threatened Defendants’ Operations By Increasing Transparency and Access to Crop Inputs..... 10

    D. Faced with the Threat of Electronic Crops Inputs Sales Platforms, Defendants Conspired With One Another to Restrict the Electronic Platforms’ Ability to Successfully Compete in the Crop Inputs Market. .... 11

    E. The Structure and Characteristics of the Crop Inputs Market Render the Conspiracy Economically Plausible. .... 18

**VII. ANTITRUST IMPACT** ..... 21

**VIII. ANTITRUST INJURY** ..... 21

**IX. CLASS ACTION ALLEGATIONS** ..... 22

**X. STANDING TO SEEK RELIEF** ..... 24

**XI. EQUITABLE TOLLING AND FRAUDULENT CONCEALMENT**..... 25

**XII. CAUSES OF ACTION** ..... 26

**XIII. PRAYER FOR RELIEF..... 55**

**XIV. DEMAND FOR JURY TRIAL..... 57**

Plaintiff Charles Lex brings this action on behalf of himself and on behalf of the classes defined herein consisting of persons or entities in the United States, including its territories, that, at least as early as January 1, 2014 and continuing through the present (the “Class Period”), purchased from a Defendant a Crop Input as defined herein. Plaintiff brings this action for treble damages under the antitrust laws of the United States against Defendants, and demands a trial by jury.

### **I. NATURE OF THE ACTION**

1. The market for “Crop Inputs”—seeds and crop protection chemicals such as fungicides, herbicides, and insecticides—used by American farmers is one of the largest markets in the world with annual sales in excess of \$65 billion.

2. This market is dominated by: (1) four major manufacturers, Defendants Bayer CropScience Incorporated (“Bayer”), Corteva Incorporated (“Corteva”), Syngenta Corporation (“Syngenta”), and BASF Corporation (“BASF”), (collectively, the “Manufacturer Defendants”); (2) three large wholesalers, Defendants Cargill Incorporated (“Cargill”), Winfield Solutions, LLC (“Winfield”), Univar Solutions, Incorporated (“Univar”) (collectively the “Wholesaler Defendants”), that control the distribution of Crop Inputs to farmers; and (3) retailers, including Defendants CHS Incorporated (“CHS”), Nutrien Ag Solutions Incorporated (“Nutrien”), GROWMARK, Incorporated (“Growmark”), Simplot AB Retail Sub, Incorporated (“Simplot”), Tenkoz Incorporated (“Tenkoz”), and Federated Co-operatives Limited (“Federated”) (collectively the “Retailer Defendants”).<sup>1</sup>

---

<sup>1</sup> The Manufacturer Defendants, the Wholesaler Defendants, and the Retailer Defendants will be referred to in this Complaint collectively as the “Defendants.”

3. Historically and continuing to the present, the existing distribution and sale process for Crop Inputs maintains supra-competitive prices in part by denying farmers accurate product information, including pricing information, which would allow them to make better-informed purchasing decisions. As a result, the average price American farmers pay for Crop Inputs is increasing at a rate that dramatically outpaces yields.

4. For example, over the last 20 years, the price of one type of Crop Input, seed corn, rose 300%, while corn yields increased only 33% to 35%. In 1989, U.S. farms spent \$15.6 billion overall on chemicals, fertilizer, and seeds. This number rose to \$59 billion in 2019, outpacing inflation by 60%. Crop Inputs have consequently composed a larger share of farm budgets. In 1989, Crop Inputs composed 12.6% of farm expenditures; by 2019, Crop Inputs composed 16.4% of farmer spending. These increases are proving increasingly devastating to farmers, who are now the least profitable level of the American food supply chain and are drowning in hundreds of billions of dollars of operating debt that is forcing them into bankruptcy at a record pace.

5. Recognizing these inefficiencies, several electronic Crop Inputs sales platforms launched in at least the past decade. These electronic platforms aimed to provide a cheaper, more transparent way for farmers to buy Crop Inputs, circumventing the existing opaque, convoluted distribution system. For example, Farmers Business Network (“FBN”), a leading electronic sales platform and Silicon Valley startup, was extremely popular with farmers upon launch, and has successfully raised millions of dollars from leading venture capital firms to build out capacity to meet that demand.

6. These new platforms threatened the Defendants’ dominant market position and control over Crop Inputs pricing. As a result, rather than compete fairly with these new electronic platforms, Defendants conspired to block the platforms’ access to Crop Inputs by engaging in a

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.