

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS

BAYER CROPSCIENCE LP and  
MONSANTO TECHNOLOGY LLC,

Plaintiffs,

v.

TEDDY WILLIS,

Defendant.

Case No. 5:21-cv-00070

**ORIGINAL COMPLAINT FOR DAMAGES AND INJUNCTIVE RELIEF**

Plaintiffs Bayer CropScience LP and Monsanto Technology LLC (collectively referred to as “Bayer CropScience” or “Plaintiffs”), file this Original Complaint against Defendant Teddy Willis (“Willis” or “Defendant”) and would respectfully show this Court the following:

**I. INTRODUCTION**

1. Defendant knowingly, intentionally, and willfully committed patent infringement by making, using, offering to sell, and/or selling cotton seed with Bayer CropScience’s patented technology, including its Bollgard II® and/or XtendFlex™ cotton seed technology. This infringing cotton seed made, used, offered for sale, and/or sold by Defendant, without authorization from Bayer CropScience, was saved from harvesting such cotton seed planted in prior years. Defendant further induced and contributed to patent infringement by selling this infringing cotton seed to other

farmers—or delinting such cotton seed for other farmers for them to plant—without authorization from Bayer CropScience.

## II. PARTIES

### Plaintiffs

2. Bayer CropScience LP is a limited partnership organized and existing under the laws of the State of Delaware with its principal place of business in St. Louis, Missouri.

3. Monsanto Technology LLC is a limited liability company organized and existing under the laws of the State of Delaware with its principal place of business in St. Louis, Missouri.

### The Defendant

4. Defendant Teddy Willis is an individual and a citizen of Texas. His current address, upon information and belief, is 7322 93<sup>rd</sup> Street, Lubbock, Texas 79424.

5. Willis owns and operates a delinting facility in Lubbock County with an address of 15003 FM 400 (County Road 3400), Slaton, Texas 79364.

6. Willis may be served with summons at 15003 FM 400 (County Road 3400), Slaton, Texas 79364, or 7322 93<sup>rd</sup> Street, Lubbock, Texas 79424, or wherever he may be found.

## III. JURISDICTION AND VENUE

7. This is an action for patent infringement arising under the patent laws of the United States of America, 35 U.S.C. § 1, *et. seq.*, including 35 U.S.C. § 271. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 because one or more of

Bayer CropScience's claims arise under the laws of the United States, as well as 28 U.S.C. § 1338, granting district courts original jurisdiction over any civil action regarding patents.

8. This Court has personal jurisdiction over Defendant, and venue is proper in this judicial district. Willis resides in and operates his business in Lubbock County, a county within the Northern District of Texas. Venue also is proper in this judicial district because Plaintiffs' claims arose within this judicial district. Specifically, Defendant committed patent infringement at his regular and established place of business in Lubbock County, Texas. As such, venue is proper under 28 U.S.C. § 1400(b).

#### IV. PATENTS-IN-SUIT

9. United States Patent Number 7,223,907 ("the '907 patent"), a true and correct copy of which is attached hereto as **Exhibit A**, was issued on May 29, 2007.

10. United States Patent Number 7,381,861 ("the '861 patent"), a true and correct copy of which is attached hereto as **Exhibit B**. The '861 patent was issued on June 3, 2008.

11. United States Patent Number 8,420,888 ("the '888 patent"), a true and correct copy of which is attached hereto as **Exhibit C**. The '888 patent was issued on April 16, 2013.

12. Monsanto Technology LLC is and has been the owner of the '907, '861, and '888 patents for all times relevant to the events giving rise to this action.

13. Bayer CropScience is and has been the exclusive licensee of the '907, '861, and '888 patents from Monsanto Technology LLC.

## V. FACTUAL BACKGROUND

### A. Background of Bayer CropScience's Biotechnologies

14. This case concerns revolutionary biotechnologies including Bollgard II® and XtendFlex™ cotton seed. These patented technologies enable cotton (1) to resist leaf and boll-feeding worm species that damage cotton bolls and reduce yields, and (2) to tolerate widely-used agricultural herbicides such as glyphosate, dicamba and glufosinate. Glyphosate, dicamba, and glufosinate-based herbicides can cause damage to conventional crops and non-crop plants that are not naturally resistant to the herbicides or have not been genetically modified to tolerate them.

15. Bayer CropScience invested decades of research and hundreds of millions of dollars developing these biotechnologies to help farmers avoid pest damage and control weeds. As reflected by farmers' adoption, these technologies offer farmers significant economic benefits. The technologies have decreased production costs for crops and they have led to a significant reduction in the amount of management time needed to grow crops, in part because they greatly simplified the treatment of insects and weeds.

16. Before the introduction of Bayer CropScience's earlier Roundup Ready® seeds, farmers often had to apply three or more different herbicides to achieve the same control of weeds that has been achieved using Roundup Ready® seeds together with glyphosate as the sole herbicide, and Roundup Ready® Flex was developed to increase crop tolerance to glyphosate.

17. The next generation of Bayer CropScience technologies, XtendFlex® seeds are used with glyphosate herbicide in combination with dicamba or both dicamba and glufosinate herbicides to combat weeds which may be resistant to one or more herbicides. XtendFlex® technologies enable farmers to reduce tillage of the soil with heavy equipment, decreasing erosion and soil loss. The use of Bollgard II® cotton has similarly reduced the need for farmers to apply chemical pesticides to the cotton crop to prevent worm species from damaging the plants.

18. To commercialize its inventions, and protect its valuable intellectual property rights, Bayer CropScience licenses its technology to competitors and to individual farmers. Farmers wishing to lawfully use the patented technology agree to abide by the terms of a license agreement (a “Technology Stewardship Agreement” or “TSA”) that provides the farmer/licensee with the permission to use the valuable technology. The TSA provides the licensed farmer, and only the licensed farmer, with the right to use the patented technology to grow a single commercial crop, the seeds of which will also contain the patented technology. Farmers may not save seed containing the patented technology from harvested crops for replanting on their own fields, nor may they save seed to sell or transfer to other farmers for replanting. A farmer who wishes to grow crops from seeds containing Bayer CropScience’s technology must obtain the seed from an authorized dealer each planting season.

### **Herbicides and Biotechnologies**

19. Roundup® is a non-selective glyphosate-based herbicide manufactured by Bayer CropScience that, when applied to crops that are not tolerant to glyphosate, causes

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