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Legal Policy Section, Antitrust Division  
U.S. Department of Justice  
450 5<sup>th</sup> Street, NW, Suite 11700  
Washington, DC 20001

Re: Comment

Dear All:

I am a healthcare provider concerned with food quality and food security. I appreciate the opportunity to share my comments in advance of the Department of Justice's workshops on "Agriculture and Antitrust Enforcement Issues in Our 21st Century Economy."

Monsanto's current control of over 90% of seed genetics clearly violates antitrust laws. What is particularly troubling in this case is not simply the economic injustice, but how this economic injustice impinges on humankind's basic right to grow food and perpetuate life.

It is essential for our survival that we recognize the ecologic imperative of non-centralized seed sources, as well as seed sources that have a natural and reliable stability over time. Many heirloom Native American seeds exhibited drought and pest resistance, these traits being stabilized by the slow process of their development over thousands of years.

Unlike wild plants, crops depend on cultivation by humans for their continued existence. Where was corporate or scientific interest in these unique traits when so many of these Native American crops were allowed to become extinct? Where was justice when their continued cultivation was discouraged through loss of land ownership and the economic pressures wrought by farm subsidies? The loss was more than economic.

Seeds should not be subject to the intellectual property domain. These patented DNA sequences can travel through natural means (dissemination of seeds or pollen through wind, rain, floods, animals, pollinators) to distant places and then replicate themselves in other plants and crops, in the absence of human intent and knowledge. Added to that is the ever present possibility of transmission through unnatural but unintended (or intended) means. Seeds can travel within the treads of airplane tires. Lakes and other waterways have unintentionally become seeded with exotic plants through adherence of reproductive material on the bottom of small boats transferred from place to place. In Mexico, transgenic rice DNA has found its way into the landrace varieties, having arrived in shipments from the USA.

The people of the United States have never been given an opportunity to vote on the legitimacy of patenting life forms. The 1980 *Diamond v. Chakrabarty* case was upheld in the favor of patenting only in the context of interpreting existing law. But it was acknowledged that existing law was formed before the advent of this type of technology. And tragically, the ruling rested on a legal definition of life as a "composition of matter".

If we are living in a country where the guardians of justice can not recognize the difference between life and a composition of matter, we are living in a country that can not perceive justice, much less enact it.

Patenting incentivizes corporations to introduce "novel" genetic constructs into life forms for private economic benefit and market control, in defiance of ecologic wisdom and the public good. Antitrust laws exist to safeguard economic justice. But with the patenting of DNA, this economic injustice further escalates into threatening the natural ability of life to self-perpetuate on this planet. In the case of plants, for example, "reproductive ablation" technology is being introduced to make consumers dependent on further corporate intervention in order for the life form to reproduce.

If men were to have sex with pigs in the barnyard, this would (hopefully) cause a moral outrage. And yet there would be no genetic consequence for future generations because natural safeguards have evolved to prevent such acts of bestiality from creating progeny. Meanwhile, corporations are combining the DNA of pigs and other animals with that of humans and claiming themselves owner of the chimeras. It is upsetting to me that the genetic integrity of human ancestry has been so casually sodomized. Species boundaries, genus boundaries, even kingdom boundaries have suddenly all been flushed down the toilet. All for the sake of corporate profit won by the patenting of "novel innovations".

You have an opportunity to limit a corporate monopoly on the national and global food supply. I am hoping you will also seize the opportunity to explore further the moral and constitutional legitimacy of intellectual property law.

Life is not a commodity to be owned by corporations. We can not have justice with anachronistic laws.

I urge you to please include in your investigation a consideration of the importance keeping seeds and DNA, the foundation of human life, within the public domain. I ask you to please give the citizens of the United States a chance to voice on the constitutional issue of whether to allow patenting of DNA sequences and life forms.

Thank you so much for the opportunity to voice my concerns.

Sincerely yours,



Gena Fleming