Intellectual property law: the intellectual property of seeds

Law

Harris Kamran Law Case Study 8 June Intellectual Property Law: the intellectual property of seeds The intellectual property of seeds refers to the law that states that the genetically engineered seeds are the property of the companies that produce them, and since farmers are using the property of those companies, they need to pay royalties on the use of seeds (Rogers, 2010). It furthermore states that the farmers no longer have the right to store the seeds for the next harvest (Rogers, 2010). This law has both pros and cons, and this paper purports to highlight them, and to provide an explanation and insight into the law. Previously, the seeds that the farmers used, such as those of soy bean, cotton, and wheat, were wild, naturally selected, or non-genetically selected by the farmer himself for cultivation (Shiva, 2012). The farmer had to merely purchase the seed for one time to harvest. The crop that yielded from those seeds provided the farmer with enough seeds to not only save for himself and his family, but also to use for the next harvest (Shiva, 2012). This provided the farmer with increasing profit margins and reduced cost of harvest. There was no concept of royalties since it was the farmer who owned the seeds. However, with the increase in the concept of genetic engineering, and the research into improved quality of the seeds, the companies that produce those seeds have gained an increased standing in the seed market and the agricultural sector. Since the seeds are not naturally selected but artificially produced as a result of the engineering by those companies, by law, the seeds have now become the property of the companies (Rogers, 2010). The farmers, therefore, not only have to pay for the initial purchase, but also have to pay royalties on the yield (Shiva, 2012). The law extends, however. Initially, that was the

extent of the royalties. However, since the companies realized that farmers can carry out the next harvest through the same yield without buying the seeds again, they have now started claiming the intellectual right over the next generation of seeds, so that farmers now have to pay royalties over the replanting as well (Rogers, 2010). Moreover, they can no longer save the seeds for themselves, or sell them in the market (Shiva, 2012). If they do so, it is termed as theft of intellectual property and the market is deemed as black market (Rogers, 2010). There are some pros to this claim by the companies, which will be discussed before the cons. The companies invest a substantial amount of budget in the research and development of new and improved seeds, so that there is more yield and increased sales (Rogers, 2010). This ultimately does benefit the farmer. Also, their claim over the seeds is justified since the seeds are manufactured by the companies and not by the farmers. If the farmers refuse to pay for the seeds, or collect them and sell them, they would be infringing upon the right of the companies. Moreover, the companies would lose the incentive to carry out further research into this sector. Since property rights encompass other areas of physical property, and intellectual property rights encompass scientific and artistic intellectual property, it is no surprise that this law should also extend to the development of scientifically engineered seeds. The cons, however, far outweigh the pros in this situation. The right to save and collect the seeds and to sell them in the open market, as long been viewed as the inherent right of the farmer. By repealing this right, the companies have left little incentive to the farmers to work hard in the fields and get the maximum yield. The yield itself was perhaps the single most significant incentive for

the farmers, which has been nullified by this law (Rogers, 2010). Also, this process has resulted in increased debts over the farmers, as they have to pay continued royalties on the yield and the subsequent harvests, while they are unable to sell the produce in the market and recover the costs. In simple words, the farmers have lost their source of income. The law of intellectual property rights on the seeds is, hence, often refuted on moral grounds rather than legal grounds. The moral objections are justified since it is the farmer who is doing the physical labor, yet still has to pay to the companies, with no means or methods to incur profits on his labor (Rogers, 2010). This outcome has actually resulted in some suicidal deaths over the matter, and the farmers have been gathering in increasingly larger mobs to fight the limitations imposed on them by the corporate world (Shiva, 2012). The solution then, is to perhaps seek a middle ground in the situation. Whereas it is only legal and apparent that the companies own the seeds and enjoy a right of intellectual property over their product, the seeds, and that the farmers should legally pay for the purchase and royalties on the yield, in the best interest of the farmers, however, the clause of paying continued royalties over subsequent harvests should be repealed, and the farmers should be given the right to collect, save, and harvest a set percentage of the total yield of the harvest without paying royalties on that percentage. References Attorney. (2011). Biotech patent attorney. Retrieved from http://patent. attorney. org/biotech-patent-attorney Monsanto, O. (2012, May 30). Mexican farmers block Monsanto law to privatize plants and seeds. Retrieved from http://www. occupymonsanto360. org/2012/05/30/mexican-farmers-block-monsanto-law-to-privatize-plants-and-seeds/ Rose. K. C.

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