

Farm Management

Big changes near for biotech seed

Ask a CCA

Question:
What happens when biotech seed patents expire?

Dustin Ehrman: Agriculture is about to enter into a new era as the patents on the first biotech seed traits begin to expire in 2014. This will affect farmers in several ways. The first patent expiration will be the Roundup Ready 1 soybean trait.

Question:
Will Monsanto enforce variety patents?

Ehrman: Starting with the 2015 growing season, seed companies can sell and farmers can buy and plant RR1 soybeans without the contractual parameters currently set. Monsanto will not enforce variety patents on Monsanto-developed varieties containing the RR1 trait.

Question:
Does this mean I can save my soybean seed?

Ehrman: Farmers wishing to save and plant their own RR1 soybean seed after 2014 will need to check with their seed company to ensure the variety they are planning to save is not patent-protected. The germplasm in many soybean varieties is protected by a variety patent that is separate from any biotech patent such as the RR1 trait that is incorporated into the seed.

Question:
Will companies offer RR1 seed after 2014?

Ehrman: Monsanto has taken steps to ensure the opportunity for the development and availability in 2015 and beyond of soybean varieties with the generic RR1 trait. These steps include revising the terms of the licensing agreements with more than 150 seed companies and 16 uni-

versities to allow them to continue to offer RR1 soybeans up to and following patent expiration in 2014.

Question:
Does this change how I choose a variety?

Ehrman: Soybean farmers will continue to choose the varieties that fit their farm's needs the best. They will need to evaluate yield, traits, disease packages, plant characteristics, protein and oil content, food quality traits, and cost when making seed-purchasing decisions in the future. One thing is certain: Seed companies will continue to offer soybean varieties and traits farmers need and demand.

Question:
Will it affect soybean exports?

Ehrman: As with any patent expiration, steps need to be taken to make sure all regulatory processes are fulfilled prior to a patent taking on the "generic" status. Monsanto has worked closely with the American Soybean Association, other trait providers, seed companies and universities to maintain the regulatory approvals for RR1 soybeans in the export market after the patent expires in 2014. The U.S. soybean export market is obviously important and cannot be disrupted by this trait expiration. Full regulatory support for RR1 soybeans in export markets will continue through at least 2021.

Meet the adviser

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More than 550 Certified Crop Advisers in Ohio are accredited through an international program to enhance the professional advice farmers receive. If you have a question for a CCA, email it to twhite@farmprogress.com.



Land-buying basics

Country Counsel

By ROBERT MOORE

NO transaction is more important to farmers than the purchase of land. The process of buying land starts with negotiating a contract, ends with a transaction closing and includes several important intermediary steps.

The initial negotiation is the first step in a real estate transaction. Under Ohio law, the buyer or seller can back out of a real estate transaction unless the agreement is in writing and signed. It is very risky to enter into a real estate sale or purchase with only a verbal agreement.

The agreement should clearly identify the property subject to the transaction, the price, terms of payments, closing date and any unique conditions or contingencies. A contract does not need to be 10 pages long to adequately protect the parties, but it also should be more than a few terms handwritten on a piece of scrap paper. It is often worth a few hundred dollars to have an attorney review any contracts before signing to be sure the contract adequately reflects the parties' agreement.

Satisfactory title search

After the contract is signed, the next significant step is the title search. The buyer does not want to buy land that is encumbered with a mortgage or lien. Until a mortgage or lien is paid off, it stays with the land provided that it has been recorded at the county recorder. If a buyer buys land subject to a mortgage, the creditor can foreclose on the land even if the buyer is not obligated on the debt. The title search also will show any easements, mineral leases and other title issues related to the property. The buyer should include a con-

tingency in the contract that allows him or her to cancel the contract if the title search is not satisfactory.

The buyer can also choose to purchase title insurance, which basically guarantees the buyer is getting a good title on the land. If a title issue arises after the transaction, the title insurance company will correct the issue or pay for the legal fees of the buyer to defend the title. Title insurance claims are rare, but if a title defect is discovered after a purchase, it is a worthwhile investment. Title insurance should always be purchased unless the buyer is very familiar with the history of the property and is certain no title issues will arise.

Coordinated closing

The final step to the transaction is the closing, where the buyer makes payment to the seller and the seller signs the deed over to the buyer. If the purchase is on a cash basis, the closing can be relatively simple: The buyer gives the seller a check and the seller signs the deed.

When a lender is involved, the closing is more complex, as a mortgage must be executed and recorded, a note signed, and other documents put in order. If the seller has a mortgage on the property, the purchase proceeds will be used to pay it off so the buyer gets the property free and clear.

The closing can require the coordination of many parties: the buyer, buyer's lender, seller, seller's lender, attorneys for both parties and title company.

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If you have legal questions for this column, email them to twhite@farmprogress.com.

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