AGRIBUSINESS & INTELLECTUAL PROPERTY

CLIENT ALERT

OCTOBER/2019

AGRIBUSINESS: STJ RECOGNIZES THE CO-EXISTENCE OF INTELLECTUAL PROPERTY RIGHTS FROM THE IP AND PLANT VARIETIES ACTS OVER TRANSGENIC SOYBEANS

On October 9, 2019, the Superior Court of Justice ("STJ") unanimously denied Special Appeal No. 1.610.728/RS, establishing an understanding that entitles holders of GMO patents over soybeans to charge royalties for the use of their seed by farmers outside the scope of the Plant Varieties Act.

The issue debated is the possibility of granting simultaneous protection to transgenic soybeans by Laws 9.279/96 ("Industrial Property Law") and 9.456/97 ("Plant Varieties Act").

The Plant Varieties Act gives farmers the right to reserve their crop produce for replanting and marketing as food or raw material, as well as the right of small farmers to donate or exchange seeds in the context of specific official programs. The judgment held that these rights apply only to under the Plant Varieties Act, thus not affecting the innovation in the seeds protected by patents issued under the Industrial Property Law.

Accordingly, farmers do not have the right to replant the transgenic seed without paying royalties over the technology covered by patent holders, under the terms of the Industrial Property Law.

Superior Court-Justice Nancy Andrighi argues that allowing farmers the right to reserve the product for replanting and subsequent marketing is to ignore patent regulations.

The decision gives greater protection to the GM seed patent holder, who holds the right to receive royalties for the use of his patented invention.

PRACTICE AREA
Agribusiness
Intellectual Property

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Veirano´s team is experienced on the subject and remains available for clarifications.

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