BEFORE THE UNITED STATES JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

IN RE SYNGENTA MIR162 LITIGATION	**MDL No. _____**

BRIEF IN SUPPORT OF PLAINTIFFS' MOTION FOR TRANSFER OF ACTIONS PURSUANT TO 28 U.S.C. § 1407

Plaintiffs Munson Brothers Farm, Daryl Sondgeroth, Matthew Sondgeroth, and Union Line Farms, Inc., (collectively, the "Munson Brothers Plaintiffs" or "Movants"), respectfully submit the following brief in support of their motion for transfer for coordinated or consolidated pretrial proceedings pursuant to 28 U.S.C. § 1407. For the reasons set forth below, Movants respectfully request that the Panel transfer the actions implicated by this motion to the Honorable Harry D. Leinenweber of the United States District Court for the Northern District of Illinois, or to the alternative transferee districts proposes herein.

INTRODUCTION

Corn farmers, grain elevator operators, and corn exporters have all suffered significant economic damages as a result of Syngenta's release, promotion, and commercialization of a certain genetically engineered corn trait – MIR162 – into the United States corn production system. Syngenta's actions have resulted in the effective closure (since November 2013) of the third largest export market for U.S. corn – China. China has not granted import approval to MIR162 corn and Chinese authorities have given no indication as to when such approval might be forthcoming (if at all). Yet, despite this, Syngenta has released, and continues to release, different varieties of MIR162 corn into the U.S. corn supply. Syngenta also has misrepresented to U.S. farmers that Chinese approval for MIR162 was imminent. As of the date of the present motion, nine proposed class action cases and one non-class action case are pending against

Syngenta in nine different federal district courts. These cases all involve common questions of fact concerning Syngenta's commercialization of MIR162, the subsequent closure of the U.S.-to-China corn export market, Syngenta's misrepresentations regarding the timetable for Chinese approval and importance of the Chinese market, and the resulting harm to U.S. agricultural stakeholders.

The U.S. corn marketing system is commodity-based. That means that the corn grown by farmers is harvested, gathered, commingled, consolidated, and shipped from thousands of farms to local, regional, and terminal distribution centers. While MIR162 corn has been planted by only a very small percentage of U.S. farmers (about 3% of U.S. acres for the last two corn-growing seasons), detectable levels of MIR162 can be found in all levels of the U.S. corn supply and transportation infrastructure. This contamination of the U.S. corn supply with detectable levels of MIR162 is caused not only by commingling inherent in commodity corn transport, but is also aggravated by Syngenta's encouragement of "side-by-side" planting of MIR162 corn with non-MIR162 corn, in contradiction of generally accepted best seed quality practices to minimize commingling.

Syngenta's commercialization of MIR162 without approval from all key export markets, including China, and Syngenta's promotion of commingling-enhancing growing practices, combined with China's zero-tolerance policy toward unapproved genetic traits and China's subsequent rejection of several U.S. corn shipments due to detection of trace amounts of MIR162 since November 2013, has resulted in serious trade disruptions, lower prices for U.S. commodity corn, and increased costs for U.S. elevator operators and exporters. Put simply, Syngenta's common actions with respect to MIR162, while profitable for Syngenta, have caused and continue to cause widespread damage to a large number of stakeholders in the U.S. corn

marketing system, many of whom have recently filed lawsuits in different courts around the country seeking to hold Syngenta accountable for its wrongful acts.

Transfer for coordinated or consolidated pretrial proceedings under 28 U.S.C. § 1407 is needed here to eliminate duplication, enhance efficiency, convenience the parties and witnesses, and conserve judicial resources. In addition, 28 U.S.C. § 1407 transfer for coordinated or consolidated pretrial proceedings of the actions relating to MIR162 and the closure of the U.S.-to-China export market mitigates the risk of inconsistent and conflicting rulings on critical procedural and substantive issues, including, but not limited to, class certification, causation, and preemption.

The United States District Court for the Northern District of Illinois is the most appropriate venue for transfer because Illinois is the second largest corn producing state, a proposed class action by farmers against Syngenta is pending in the Northern District[1], Chicago is a central and major metropolitan area easily accessible by parties and witnesses, and Chicago is the home of the Chicago Board of Trade where commodity corn is traded. The strongest interests in this case are clearly evident in the Corn Belt states, such as Illinois, where U.S. corn farmers are grappling with the economic consequences flowing from Syngenta's continued promotion of MIR162 and failure to obtain import approval from China's Ministry of Agriculture. Accordingly, the Panel should transfer and centralize the scheduled MIR162-related actions currently pending and hereafter filed to the United States District Court for the Northern District of Illinois for coordinated or consolidated pretrial proceedings before the Honorable Harry D. Leinenweber, the judge presiding over the first filed of these actions in that

[1] *Munson Brothers Farm et al. v. Syngenta Corp. et al.*, No. 1:14-cv-07806 (N.D. Ill. Oct. 6, 2014).

District. While centralization before any of the skilled judges currently assigned to the actions set forth in the Schedule of Actions would also be appropriate, the Munson Brothers Plaintiffs respectfully suggest that, in the alternative to centralization in the Northern District of Illinois, the Panel should centralize these actions in either the Central District of Illinois (where two actions are currently pending before the Honorable Colin S. Bruce[2] and the Honorable Sue E. Myerscough[3]), in the Southern District of Illinois, where one MIR162-related case is pending before the Honorable Staci M. Yandle,[4] or in the Northern District of Iowa before the Honorable Mark W. Bennett, a previous MDL judge with significant experience who is also presiding over a 2011 case in which Syngenta sued a grain elevator for refusing to accept MIR 162 corn.[5]

FACTUAL BACKGROUND

A. Syngenta's Release of MIR162 and the Closure of the China Export Market

In 2009, Syngenta released a genetically engineered corn trait, MIR162, into the U.S. market. Its first generation of MIR162 corn was known as "Agrisure Viptera" ("Viptera"). Syngenta's second generation of MIR162 corn, "Agrisure Duracade" ("Duracade"), was released, sold, and distributed for planting in 2014. Viptera and Duracade have been genetically engineered to protect corn against damage from insects such as the corn borer and corn rootworm. While the seed has been approved by the United States, Brazil, Argentina, and

[2] *Trans Coastal Supply Co., Inc. v. Syngenta AG et al.*, No. 2:14-cv-02221 (C.D. Ill. Sept. 12, 2014).

[3] *Hadden Farms Inc.v. Syngenta Corp. et al.*, No. 3:14-cv-03302-SEM-TSH (C.D. Ill. Oct. 3, 2014).

[4] *Briggs et al. v. Syngenta Seeds, Inc. and Syngenta AG*, No. 3:14-cv-01072-SMY-DGW (S.D. Ill. Oct. 3, 2014).

[5] *Syngenta v. Bunge*, No. 5:11-cv-04074-MWB, (N.D. Iowa Sept. 26, 2011).

various other countries, China's Ministry of Agriculture has not approved the MIR162 trait for import despite Syngenta's filing of an application seeking such approval in March 2010.

China, long a key importer of other U.S. crops, has become a major buyer of U.S. corn. According to the United States Department of Agriculture, China purchased an estimated 5,000,000 tons of U.S. corn in 2012/13, up from 47,000 tons in 2008, making China the third largest export market for U.S. corn. China was on track to meet or exceed these numbers in 2013/14. Given that MIR162 corn has not been approved in China, however, as of November 2013, China began rejecting U.S. corn when it detected traces of MIR162 in U.S. corn shipments. Moreover, China has given no indication of when, or if, it will approve Syngenta's genetically engineered seed. As a result, exports of U.S. corn to China have plummeted.

While only a very small percentage of U.S. farmers plant MIR162 corn, the level of MIR162 corn planted is too high to ensure that any shipment of U.S. corn will not be contaminated with trace amounts of MIR162 after corn has been commingled and consolidated for export. Thus, as a result of China's prohibition on the importation of MIR162 corn, even in trace, low-level amounts, and Syngenta's decision to continue marketing MIR162 to a small minority of U.S. corn farmers – *the vast majority of* U.S. corn has been effectively excluded from what was previously the third-largest export market for U.S. corn, causing U.S. farmers significant damages as corn prices have dropped from the loss of China's export markets.

Syngenta's decision to bring Viptera to the market crippled the 2013/14 corn export market to China and caused damage to corn farmers, elevator operators, and exporters. Syngenta knew, or should have known, that releasing Viptera would lead to the contamination of U.S. corn shipments and prevent U.S. corn from being sold to export markets such as China, which had not granted regulatory approval to MIR162. Following this widespread harm, Syngenta's decision to release Duracade – its second generation MIR162 corn hybrid – again illustrates that Syngenta

has acted in reckless disregard of the consequences of inflicting widespread harm to the U.S. corn market. Also, although it knew that it lacked approval from Chinese authorities, Syngenta has misinformed farmers, grain elevators, grain exporters, and the general public into believing that regulatory approval of MIR162 corn from China was imminent and that the lack of Chinese approval would not impact corn commodity market prices.

The National Grain and Feed Association (NGFA) found that Chinese rejection of U.S. corn, which resulted solely from concerns that MIR162 had infiltrated the entire U.S. corn supply, have lowered corn prices by 11 cents per bushel, leading to a projected loss of $1.14 billion for the last nine months of the marketing year ending on August 31, 2014. In addition, elevator operators and exporters have incurred their own trade disruption costs following Chinese rejection of U.S. corn shipments.

Syngenta knew, or should have known, that disruption to the Chinese import market would influence the global corn market, that contracts between grain exporters and Chinese corn buyers would be negatively affected if MIR162 was found in grain exports to China, and that U.S. farmers would suffer damages if these contracts were placed at risk, in the form of a declining market and a lower sale price per bushel of corn.

Despite these facts, Syngenta has repeatedly attempted to downplay and misrepresent the significance of the export market for corn on U.S. corn prices, China's key role in the U.S. export market, and the timing of Chinese approval of MIR162. Syngenta did this with the intention of encouraging farmers to continue to buy and plant its MIR162 corn. While agricultural stakeholders have requested that Syngenta stop its continued release and promotion of MIR162 corn, Syngenta has refused to heed these calls, and instead is proceeding with plans to expand its commercialization of MIR162.

B. Pending Cases and Their Status

There are eight proposed class action cases – one by an exporter[6] and seven by corn farmers[7] – pending in seven different federal district courts.[8] A ninth, non-class case, was filed by corn farmers against Syngenta in the Southern District of Illinois.[9] All nine of these federal cases were filed within the last four weeks.

A tenth, non-class case by Defendant Syngenta against Bunge, a leading agribusiness company, is also pending in the Northern District of Iowa – *Syngenta v. Bunge*, No. 5:11-cv-04074-MWB, (N.D. Iowa Sept. 26, 2011) ("*Bunge*") – however, *Bunge* involves Syngenta's attempt to enjoin Bunge from posting materials regarding its refusal to accept MIR162 corn at its grain elevators, and not the economic fallout resulting from the closure of the Chinese export market due to MIR162 contamination of the U.S. corn supply. In *Bunge*, Syngenta's request for a preliminary injunction was denied, several of Syngenta's claims were dismissed on the pleadings while others were voluntarily dismissed, and on appeal, dismissal was affirmed in part, with the case remanded to determine whether Syngenta had standing under the zone-of-interests

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[6] *Trans Coastal Supply Co., Inc. v. Syngenta AG, et al.*, No. 2:14-cv-02221 (C.D. Ill. Sept. 12, 2014).

[7] *Stracener Farming Co., et al v. Syngenta AG et al.*, No. 4:14-cv-558-SWW (E.D. Ark. Sept. 18, 2014); *Hadden Farms Inc. v. Syngenta Corp., et al.*, No. 3:14-cv-03302-SEM-TSH (C.D. Ill. Oct. 3, 2014); *Cronin Inc. and Jim Ruba, Jr. v. Syngenta Corp. et al.*, No. 5:14-cv-04084-MWB (Oct. 3, 2014); *Meinke Farms, et al v. Syngenta Corp., et al.*, No. 2:14-cv-04267-NKL (W.D. Mo. Oct. 3, 2014); *Moll v. Syngenta Corp., et al.*, No. 2:14-cv-02497 (D. Kan. Oct. 3, 2014); *Volneck Farms, Inc. v. Syngenta Corp., et al.*, No. 8:14-cv-00305-TDT (D. Neb. Oct. 3, 2014); and *Munson Brothers Farm, et al. v. Syngenta Corp.*, No. 1:14-cv-07806 (N.D. Ill. Oct. 6, 2014).

[8] *See* Schedule of Actions. These actions are pending before different judges in the Central District of Illinois, Eastern District of Arkansas, Northern District of Iowa, Western District of Missouri, District of Kansas, District of Nebraska, and the Northern District of Illinois.

[9] *Briggs et al v. Syngenta Seeds, Inc. and Syngenta AG*, No. 3:14-cv-01702-SMY-DGW (S.D. Ill. Oct. 3, 2014).

test and proximate causality requirement for asserting a Lanham Act claim related to Bunge's posting of its policy to reject Viptera corn at its elevators in the first place. The remanded action remains pending, but is only tangentially related to the damages claims of agricultural stakeholders damaged by Syngenta's actions with respect to MIR162. Discovery in *Bunge* is unlikely to substantially overlap with discovery in the cases proposed for 28 U.S.C. § 1407 transfer herein, as the *Bunge* action primarily concerns the commercial speech of an elevator, as opposed to issues surrounding the harmful commercialization of an insufficiently approved genetic trait at issue here.

Accordingly, Munson Brothers Plaintiffs do not believe that the *Bunge* action is sufficiently related to the other pending actions pertaining to MIR162, and should not be centralized with them (but also suggest that this would be an appropriate alternative venue for centralization given that Iowa is the largest corn growing state by acreage and Judge Bennett would be familiar with some of the issues here).

In addition, an eleventh complaint was filed against Syngenta in Louisiana state court by agribusiness giant Cargill,[10] that, while not subject to centralization and transfer under 28 U.S.C. § 1407, would benefit from the centralization and consolidation of all federal actions, due to the facilitation of coordination between a single federal court judge and a single state court judge.

Other than the tangentially related *Bunge* action, these actions were all filed within the last several weeks and all are in early, pre-discovery stage.

[10] *Cargill, Inc. v. Syngenta Seeds, Inc.*, No. 67061, Division A, 40th Judicial District Court for the Parish of St. John the Baptist, State of Louisiana (filed September 12, 2014).

DISCUSSION

The nine cases pending against Syngenta in eight different federal district courts present precisely the sort of situation for which 28 U.S.C. § 1407 was enacted and plainly meet the standards for transfer and consolidation consistently articulated by this Panel. *See*, *e.g.*, *In re Food Fair*, 465 F. Supp. 1301, 1304-05 (J.P.M.L. 1979); *In re Multidistrict Private Civ. Treble Damage*, 298 F. Supp. 484, 490-92 (J.P.M.L. 1968).[11]

Given the very similar facts at issue in each of the actions, the threshold requirement that the actions involve common issues of fact is easily met. *See* 28 U.S.C. § 1407. Moreover, there are several other benefits to transfer and consolidation, including that it would promote efficiency, minimize the potential for duplicative discovery, and minimize the likelihood of inconsistent pretrial decisions (including inconsistent class certification decisions).

A. All Scheduled MIR162-Related Actions Share Common Questions of Fact

The commonality requirement of 28 U.S.C. § 1407(a) is readily satisfied because there are core questions fact common to all MIR162-related cases set forth in the Schedule of Actions, particularly: (1) whether Syngenta, through its acts or omissions, caused or allowed MIR162 to contaminate and commingle the U.S. corn and corn seed supplies; (2) whether Syngenta, through its acts or omissions, impeded timely import approval of MIR162 by the Chinese Ministry of Agriculture; (3) whether Syngenta misrepresented the importance of the Chinese import market and the timetable for MIR 162 approval in China; and (4) whether stakeholders in the U.S. corn marketing system have sustained or continue to sustain damages as a result of Syngenta's conduct with respect to MIR162.

[11] While several of these cases were filed by *some* of the same counsel, centralization is still appropriate given that other cases have entirely different counsel.

This factual commonality alone is generally sufficient to warrant transfer and consolidation. *See, e.g., In re HSBC Bank*, MDL No. 2451, 2013 WL 2570558, at *1 (J.P.M.L. June 5, 2013) (transferring and consolidating three class actions); *In re Foot Locker*, 787 F.Supp.2d 1364, 1366 (J.P.M.L. 2011) (transferring and consolidating four class actions); *In re VA Data Theft*, 461 F.Supp.2d 1367, 1369 (J.P.M.L. 2006) (transferring and consolidating three class actions); *see also In re Plumbing Fixtures*, 308 F. Supp. 242, 244 (J.P.M.L 1970) ("Such a potential for conflicting or overlapping class actions presents one of the strongest reasons for transferring such related actions to a single district for coordinated or consolidated pretrial proceedings which will include an early resolution of such potential conflicts.").

B. Transfer and Consolidation Will Promote Convenience and Efficiency

Transfer and consolidation of these actions would also promote efficiency and minimize the potential for duplicative discovery. *See, e.g., In re Foundry Resins*, 342 F.Supp.2d 1346, 1347 (J.P.M.L. 2004). In determining Syngenta's liability, the discovery between all actions will be largely the same, as they all concern Syngenta's common actions with respect to the commercialization of MIR162. *See In re Auto Body Shop*, MDL No. 2557, 2014 WL 3908000, at *1-2 (J.P.M.L. Aug. 8, 2014) (noting that transfer and consolidation were appropriate to eliminate duplicative discovery when the actions shared a common factual core); *In re Yamaha Motor Corp. Rhino*, 597 F.Supp.2d 1377, 1378 (J.P.M.L. 2009) (finding consolidation appropriate in order to minimize duplicative discovery regarding allegations of vehicle defects, even when numerous non-class cases also posed individualized factual questions).

In addition, these actions will involve complicated issues concerning the international corn export markets and Syngenta's bioengineering technology. *See, e.g., In re Natrol, Inc. Glucosamine/Chondroitin*, MDL No. 2528, 2014 WL 2616783, at *1 (J.P.M.L. June 10, 2014) ("[C]omplex scientific issues concerning the effectiveness of the active ingredients in the Natrol

products—in particular, glucosamine hydrochloride and chondroitin sulfate—will be litigated and many of the same clinical studies will be challenged. In our view, extensive common expert discovery and one or more Daubert hearings likely will be required."); *In re Monsanto Co. Genetically Engineered Wheat Litig.*, MDL No. 2473 (J.P.M.L. Oct. 16, 2014) ("All actions share factual questions arising from Monsanto's conduct with respect to the development and field testing of genetically-engineered 'Roundup Ready' wheat . . . [and] further allege that Monsanto's conduct has caused [plaintiffs to suffer economic injuries in the form of lower wheat prices, import restrictions imposed by other countries, and increased production costs."). The actions will also likely involve transnational considerations, including the actions of a foreign government, which would benefit from a coordinated fact discovery approach. Furthermore, all Plaintiffs will likely seek to depose many of the same Syngenta witnesses. *See, e.g.*, *In re Auto Body Shop*, 2014 WL 3908000, at *1 (transfer before a single judge was beneficial because he or she could "structure pretrial proceedings to accommodate all parties' legitimate discovery needs while ensuring that common witnesses are not subjected to duplicative discovery demands"); *In re Enfamil Lipil*, 764 F.Supp.2d 1356, 1357 (J.P.M.L. 2011) ("Centralizing the actions will allow for the efficient resolution of common issues and prevent unnecessary or duplicative pretrial burdens from being placed on the common parties and witnesses.").

Given the similarity of the actions and the potential for duplicative discovery, transfer and consolidation would inevitably conserve the resources of the parties. *See*, *e.g.*, *In re Air Crash at Dallas/Fort Worth Airport*, 623 F. Supp. 634, 635 (J.P.M.L. 1985). It would also conserve the resources of the judiciary, as it would assign responsibility for overseeing a pretrial plan to one judge as opposed to several different federal judges. *See, e.g.*, *In re Pineapple*, 342 F.Supp.2d 1348, 1349 (J.P.M.L. 2004); *In re Advanced Inv. Mgmt.*, 254 F.Supp.2d at 1379. And while proceeding in separate actions would be burdensome to both plaintiffs as well as

defendants, no party will suffer prejudice as the result of transfer and consolidation, as the majority of the cases are in the early stages, and discovery has yet to commence in the vast majority of them. A coordinated discovery schedule would therefore benefit all parties. *See In re Advanced Inv. Mgmt.*, 254 F.Supp.2d at 1379.

C. Transfer and Consolidation Will Minimize the Risk of Inconsistent Pretrial Decisions Including Inconsistent Class Certification Decisions

The pendency of multiple suits before different judges increases the risk of inconsistent pretrial decisions, including inconsistent class certification decisions. *In re AZEK Bldg. Prods.*, 999 F.Supp.2d 1366, 1368 (J.P.M.L 2014); *In re Toyota Motor Corp. Hybrid Brake*, 732 F.Supp.2d 1375, 1376-77 (J.P.M.L. 2010).

As the Panel has recognized, "[c]entralization will enable the transferee judge to make consistent rulings on such discovery disputes from a global vantage point" and will otherwise prevent inconsistent pretrial rulings on common factual issues. *See In re Yamaha*, 597 F.Supp.2d at 1378; *see also In re Dow Chem.*, 650 F.Supp. 187, 188 (J.P.M.L. 1986). In addition and perhaps most critically, centralization before one judge will prevent inconsistent pretrial rulings with respect to class certification. *See, e.g., In re H&R Block*, 435 F.Supp.2d 1347, 1349 (J.P.M.L. 2006) ("The three actions contain competing class allegations and involve facts of sufficient intricacy that could spawn challenging procedural questions and pose the risk of inconsistent and/or conflicting judgments."). Indeed, the Panel has long recognized that preventing inconsistent class decisions "presents one of the strongest reasons for" transfer and consolidation:

> [T]here are at least three other actions with class action claims which are in potential conflict with the claims asserted by these plaintiffs. Such a potential for conflicting or overlapping class actions presents one of the strongest reasons for transferring such related actions to a single district for coordinated or consolidated pretrial proceedings which will include an early resolution of such potential conflicts.

In re Multidistrict Private Civ. Treble Damage, 308 F.Supp. at 243-44; *see also In re Sugar Industry*, 395 F.Supp. 1271, 1273 (J.P.M.L. 1975) ("We have consistently held that transfer of actions under Section 1407 is appropriate, if not necessary, where the possibility of inconsistent class determination exists."). Given that there are currently several putative class actions with overlapping proposed classes pending before different federal judges applying the precedents of different circuits, the risk of inconsistent class decisions is particularly sharp here.

D. Movants Propose 28 U.S.C. § 1407 Transfer To the United States District Court for the Northern District of Illinois Before Judge Harry D. Leinenweber

The Munson Brothers Plaintiffs respectfully suggest that the Panel transfer the MIR162-related cases to the United States District Court for the Northern District of Illinois for coordinated or consolidated pretrial proceedings before the Honorable Harry D. Leinenweber. Judge Leinenweber is an experienced jurist who has presided over several proceedings involving class allegations. *See, e.g., Zidek v. Analgesic Healthcare, Inc.*, Case No. 13 C 7742, 2014 WL 2566527 (N.D. Ill. June 6, 2014); *Osada v. Experian Information Solutions, Inc.*, 290 F.R.D. 485 (N.D. Ill. 2012); *Hackett v. BMW of North American, LLC*, Case No. 10 C 7731, 2011 WL 2647991, at *2 (N.D. Ill. June 30, 2011). Judge Leinenweber is not presiding over any other pending MDLs.

In addition, Chicago is a natural venue for these cases, as it satisfies many of the criteria the Panel considers in determining the appropriate location for consolidation. *See* 17 James Wm. Moore, *et al.*, Moore's Federal Practice § 112.04[2] (Matthew Bender 3d ed. 2007) (the Panel frequently considers factors such as the parties' principal places of business, the location of documents and witnesses and the centrality and convenience of the proposed transferee court); *see also, e.g., In re Tri-State Water Rights Litig.*, 481 F. Supp. 2d 1351, 1353 (J.P.M.L. 2007) (finding the core disputes in the litigation primarily affected parties and interests located within

the Eleventh Circuit, and assigning the Middle District of Florida as a transferee forum); *In re Air Crash Disaster*, 362 F. Supp. 572, 573 (J.P.M.L. 1973).

Many Plaintiffs have their principal places of business in Illinois, as Illinois ranks number two in nationwide corn production and is located at the center of the Corn Belt, which stretches from eastern Kansas to western Ohio. Chicago is also the home of the Chicago Board of Trade ("CBOT"), where corn futures are exchanged and the prices of commodity corn contracts are determined. Because the Plaintiffs' damages theory (and the price of corn) is interconnected with the function of the commodities market, third-party discovery from the CBOT is likely.

In addition, Chicago is a major metropolitan area near the center of the country that will be easily accessible to the parties, witnesses, and counsel. *See, e.g., In re Watson Fentanyl Patch Prods. Liab. Litig.*, 883 F. Supp. 2d 1350, 1352 (J.P.M.L. 2012) (finding that the Northern District of Illinois "provides a convenient and accessible forum for this litigation in which actions have been filed throughout the country"); *In re Wireless Telephone Federal Cost Recovery Fees Litig.*, 293 F.Supp.2d 1378, 1380 (J.P.M.L. 2003). Indeed, Chicago represents a geographically convenient location for all Plaintiffs in this matter, who have farming operations located in the Northern District of Illinois, Central District of Illinois, District of Nebraska, Northern District of Iowa, Western District of Missouri, District of Kansas, and Eastern District of Arkansas. Additionally, Defendant Syngenta Seeds is headquartered in Minnetonka, Minnesota – a short plane flight away from Chicago.

Moreover, the last major multidistrict litigation involving genetically modified corn was transferred by the Panel to the Northern District of Illinois. *See In re StarLink Corn Products Liability Litigation*, 152 F. Supp.2d 1378, 1380-1381 (J.P.M.L. 2001) ("[T]he Panel finds that the actions in this litigation involve common questions of fact arising out of the allegations that StarLink TM corn was improperly commingled with non-StarLink TM corn and/or used in

certain corn-based food products with detrimental effects upon farmers and consumers. Centralization under Section 1407 in the Northern District of Illinois will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation, while accordingly being necessary in order to avoid duplication of discovery prevent inconsistent pretrial rulings and conserve the resources of the parties, their counsel and the judiciary… Although no single district stands out as the geographic focal point for this litigation comprised of claims with putative nationwide classes and parties and witnesses dispersed in various parts of the United States we are persuaded that the Northern District of Illinois is the most appropriate transferee court. We note that i) an action involving nearly all defendants is pending there, and ii) this district is conveniently located and readily accessible for most of the litigants.").

Finally, the Panel has analyzed the experience of a potential transferee forum in managing complex multidistrict litigation. *See, e.g., In re Janus Mutual Funds Investment Litig.*, 310 F. Supp. 2d 1359, 1361 (J.P.M.L. 2004) ("Thus we have searched for a transferee district with the capacity and experience to steer this litigation on a prudent course."). The Northern District of Illinois has considerable experience in conducting numerous consolidated and complex actions. According to the Panel's statistics on terminated multidistrict litigation, at the end of 2013, the Northern District of Illinois had successfully concluded 79 litigations.

Alternatively, Movants suggest that the cases should be transferred to either the Central or Southern Districts of Illinois, before the Honorable Colin S. Bruce or Honorable Staci M. Yandle, respectively, or to the Northern District of Iowa for coordinated or consolidated pretrial proceedings before the Honorable Mark W. Bennett, for the reasons set forth above.

CONCLUSION

For the reasons stated herein, the Farmer Plaintiffs respectfully request that the Panel issue an order transferring the actions listed on the Schedule of Actions to the United States

District Court for the Northern District of Illinois for coordinated or consolidated pretrial proceedings.

Dated: October 7, 2014

Respectfully submitted,

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