

**Statement by  
Paul Mobbs**  
relating to the  
**genetiX snowball website**

*Contents*

<b>Introduction.....</b>	<b>2</b>
<b>The 'Environmental Activism Website'.....</b>	<b>2</b>
<b>The genetiX snowball website.....</b>	<b>4</b>
<b>Website usage.....</b>	<b>5</b>
Table 1: Environmental Activism Website Usage.....	6
Table 2: Examples of companies accessing the website.....	6
Table 3: Usage by National Origin (14/4/99).....	7
Table 4: genetiX snowball Website Usage.....	8
<b>The Website and Monsanto's Injunction.....</b>	<b>8</b>
<b>In Conclusion.....</b>	<b>11</b>

April, 1999

## **Introduction**

My name is Paul Mobbs. I live at 3, Grosvenor Road, Banbury, Oxfordshire. I am an independent environmental consultant working for local authorities, small businesses and community groups across the UK in the fields of planning, pollution control, waste management and sustainable development. As a hobby I also run - at my own expense - an internet site known as the '*The Environmental Activism Website*'<sup>1</sup>, and I conduct training and educational activities as part of a voluntary network of campaigners and environmental professionals.

I freely admit to having obtained a copy of the genetiX snowball '*Handbook for Action*'<sup>2</sup>. Furthermore I admit to scanning this and other information from the genetiX snowball campaign, and receiving information via email, which has been used to create a website on the internet for the genetiX snowball campaign. However, I would not consider myself an active part of the genetiX snowball campaign. The service I am providing to genetiX snowball is the same as I provide to other campaign groups. I advise on setting up websites, and where the need arises, I provide technical expertise and space on the Internet for community groups as part of my own site<sup>3</sup>.

I was informed on Monday the 12th of April that Monsanto were seeking to extend their injunction against those involved in genetiX snowball actions to anyone who has received a copy of the '*Handbook for Action*'. It is clear that, as someone running a website for genetiX snowball, and therefore a distributor of the '*Handbook for Action*', I am encompassed by the terms of the injunction. I appear here today to respond to the injunction, to explain what the website is, and why I believe the injunction to be an infringement of my human rights.

## **The 'Environmental Activism Website'**

The 'Environmental Activism Website' started up in May 1996. It developed from a text based conference on the GreenNet system that sought to provide people with up-to-date

---

<sup>1</sup> Address - <http://www.gn.apc.org/pmhp/>

<sup>2</sup> '*Handbook for Action - a guide to removing genetically modified plants from release sites in Britain*', genetiX Snowball 1998.

<sup>3</sup> Anyone visiting my site will see the range of information I provide myself, and for other groups.

information on campaigns. However text-only distribution of information is very limited. When the opportunity presented itself I started the World-wide Web site to take advantage of the communication benefits hypertext systems offer (that is, the ability to combine text and graphics pages, linked together using a point-and-click interface).

The philosophy of the site is very simple - if you can give people the basic information they need to take on problems themselves, you help cause change. To this end the site concentrates primarily on supplying information targeted to help ordinary people tackle environmental issues. Currently there are about 30 megabytes of data on the site - that is equivalent to the text of thirty copies of the bible. Most of the data is organised as large collections of files in themed areas. Currently there are eighteen themed areas. For example the planning system, access to information, radioactive materials, local government, and of course genetic engineering. The type of information stored on the site is also specifically chosen for its usability by local communities to solve everyday problems. For example, there are copies of government reports, circular and regulations not published on the Internet, and information from campaigners and environmental professionals working on issues of common interest.

The philosophy of the site also extends to the way it is designed. The whole site has been compiled according to a clear site design policy. The type of user the site is targeted towards does not have a great deal of computing or financial resources. Every effort is therefore made to minimise the software and hardware requirements for people using the site.

The final aspect to the site is the provision of space for individuals and groups who do not have the means to produce sites of their own. Most of the 'other' sites within the Environmental Activism Website were offered by me to individuals and groups who would clearly benefit from having a presence on the Internet. I rarely charge for such services - although I do accept gifts to contribute towards the costs of running the site.

The issue of genetic engineering has been important since the site was first put on-line. Long before genetic engineering was a great media issue there were many people in the UK concerned about it, and actively working on the issue. I developed a themed area within the website to support this work. The coverage of the site has also extended with the development of the national and international campaign.

The website was the first site in the UK, in the Summer of 1996, to produce an 'atlas' of genetically modified test sites. The Department of the Environment did put this information on-line but in a very badly organised format (in reference number order only). The '*GMO test sites atlas*' organised this information not only by reference number, but also by county location and by the company involved in the tests. Some claim that the provision of this information assisted the development of groups like genetiX snowball since it raised the profile of test sites locally. Recently the Department of the Environment ceased to update their website and other people have begun to undertake the work of compiling on-line registers. I am therefore evolving the role of the website to shift from the '*deliberate release*' public register towards the '*contained use*' public register. As the Health and Safety Executive have failed to put this information on-line I have purchased a copy of the entire public register and as soon as time allows I will put that on-line too.

### **The genetiX snowball website**

At the Friends of the Earth national conference in Bath in September 1998 I met representatives of genetiX snowball. It was clear to me that they were a group of people who were running a just and reasonable campaign. I believe they could benefit from having their materials put on the Internet and therefore I offered to put the '*Handbook for Action*' and other materials on-line.

In deciding whether or not to put material on my website I have three main considerations to weigh:

1. *Could the material be considered defamatory?* In my view the information produced by genetiX snowball was well researched and accurate. What references there were to individuals and companies were either established fact, or they were information obtained from public registers. I did not consider the information to be defamatory, and I am not aware that Monsanto are alleging that the information about them was defamatory.
2. *Could the material be deemed to incite lawlessness?* In my opinion, although the handbook did advocate activities which may be considered by certain people to be unlawful, the emphasis on taking responsibility for actions, of only carrying out proportionate activity, and the emphasis on the public interest defence for the taking of

these actions, clearly indicated that this material was not advocating general and mischievous lawlessness. If anyone follows the advice of the handbook in pulling up a test site they must almost certainly face arrest by the police. I consider that genetiX snowball are working on a valid campaign of civil disobedience, and are doing so on the basis of a responsible public interest defence.

3. *Is the purpose and aim of the campaign morally acceptable?* This is inevitably a subjective assessment. I believe that it is the obligation of the individual to resist unjust and amoral powers that pose a threat to the well-being of society. As Martin Luther King said, "*For evil to succeed all it needs is for good men to do nothing*". It is my belief that genetic engineering is being imposed on the basis of a corporate agenda, driven by the need to modify current trends in agricultural practice to favour market domination by a few transnational corporations. The shift towards the genetic modification of crops is doubly-offensive to the public. It involves the domination of legislative and regulatory processes by corporate interests over the well-being of society. But the reliance on the justification of 'science' or 'progress', as a means to obfuscate and evade debate, excludes the majority of the public from the decision making process. I considered that putting this information on-line was in the public interest, and was a means to stimulate debate and discourse on the issue of genetic modification of crops.

The website is slowly being developed - albeit in fits and starts due to my lack of spare time. For example in addition to the hypertext version of the handbook, I recently posted on-line an Adobe Acrobat version of the handbook. The use of the Acrobat format means that the file will print out the entire handbook in the same format, irrespective of the computer, operating system or printer involved.

## **Website usage**

Hosting the genetiX snowball website has led to significant additional usage of my website. As part of the operating system on which the site resides logs are kept of file usage, and in a limited manner the source of requests for information on the site. These logs are available to me to inspect on-line, and the data has always proved invaluable in planning the development of the site.

Usage for the site as a whole has increased significantly over the past eighteen months.

Usage is logged cumulatively over the logging period. Every time a graphic or page is requested by someone it creates usage ("total requests" and "daily requests"). The system also keeps track of how many actual hypertext pages are accessed ("page requests"). For both these statistics averages are calculated over a rolling seven days.

The system also keeps track of how much data is actually requested from the website (in kilobytes) and how many different domains requested data.

**Table 1: Environmental Activism Website Usage**

<b>Date:</b>	15/12/98	05/01/99	26/01/99	04/02/99	02/03/99	29/03/99	14/04/99
<i>Days logging:</i>	72	93	114	122	149	176	13
Total requests	71,537	95,288	121,889	134,519	167,416	210,553	39,635
Average daily requests	996	1,025	1,068	1,095	1,122	1,198	2,243
Total page requests	19,196	23,500	28,181	30,474	35,602	43,586	9,231
Average daily page requests	267	253	247	248	238	247	522
Total data transaction (kBytes)	512,390	630,984	757,372	823,175	1,000,448	1,239,040	305,977
Average daily data transaction (kBytes)	7,136	6,794	6,639	6,705	6,709	7,052	17,321
Distinct hosts served for week	441	389	554	257	884	710	952
Total hosts served	3,113	3,834	4,702	5,186	6,311	7,926	1,677

One interesting part of the server usage report is the 'domain report' (see Table 2). Every computer connected to the internet has a 'domain name'. This identifies it uniquely in the world. The domain report lists all domains that have accessed the whole website (not just the genetiX snowball section) over the logging period more than 100 times. Although it is not possible to state absolutely that the users on that domain accessed the genetiX snowball website, it is a reasonable deduction that those companies with particular specialities would be interested in those areas of the site most closely associated with their core business. Therefore one could assume that genetic engineering companies who access the site a significant number of times will have taken copies of parts of the '*Handbook for Action*', and should therefore also be subject to the injunction Monsanto are seeking to confirm.

During the month of April both Agrevo (251 requests) and Zeneca (467 requests) have still been using the site. Given this evidence, it is clear that other genetic engineering companies would be subject to the injunction!

**Table 2: Examples of companies accessing the website**

		Date:	15/12/98	05/01/99	26/01/99	04/02/99	02/03/99	29/03/99
<i>Company</i>	<i>domain</i>							
Unilever	unilever.com		160	164	164	324	324	324
Houses of Parliament	parliament.uk		787	787	828	828	891	929
Zeneca	zeneca.co.uk			262	375	375	375	427
<b>Monsanto</b>	<b>monsanto.com</b>				<b>163</b>	<b>163</b>	<b>189</b>	<b>189</b>
Agrevo	agrevo.com							151

Figures are cumulative usage over the logging period

**Table 3: Usage by National Origin (14/4/99)**

No. reqs	% req.	domain	Country	No. reqs	% req.	domain	Country
6046	23.49%	.com	Commercial	41	0.07%	.ar	Argentina
5391	24.37%	.uk	United Kingdom	39	0.52%	.il	Israel
4386	16.32%	.net	Network	38	0.06%	.jm	Jamaica
3859	12.49%		[numerical addresses]	38	0.02%	.id	Indonesia
1815	3.26%	.edu	USA Educational	30	0.20%	.int	International
479	5.63%	.jp	Japan	29	0.66%	.it	Italy
218	0.61%	.ca	Canada	26	0.03%	.cz	Czech Republic
217	0.29%	.dk	Denmark	25	0.03%	.es	Spain
210	0.42%	.us	United States	22	0.12%	.pl	Poland
207	1.41%	.au	Australia	22	0.08%	.za	South Africa
185	0.52%	.no	Norway	14	0.30%	.nz	New Zealand
161	0.16%	.gov	USA Government	6	0.02%	.kr	South Korea
152	1.95%	.fr	France	5	0.10%	.ae	United Arab Emirates
147	0.49%	.nl	Netherlands	4	0.03%		[domain not given]
140	0.81%	.org	Non-Profit Orgs	3	0.10%	.fi	Finland
129	0.59%	.de	Germany	3	0.09%	.hu	Hungary
110	0.12%	.sg	Singapore	2	0.08%	.br	Brazil
106	0.85%	.se	Sweden	2	0.05%	.gb	Great Britain
98	0.32%	.mx	Mexico	1	0.15%	.uy	Uruguay
98	0.30%	.ch	Switzerland	1	0.11%	.ro	Romania
90	0.33%	.gr	Greece	1	0.11%	.mk	Macedonia
83	0.33%	.be	Belgium	1	0.11%	.tr	Turkey
80	0.34%	.mt	Malta	1	0.01%	.cl	Chile
74	0.77%	.ie	Ireland	1	0.01%	.ru	Russia
53	0.22%	.my	Malaysia	1	0.01%	.bm	Bermuda
51	0.43%	.mil	USA Military	1	0.01%	.ba	Bosnia-Herzegovina
49	0.14%	.pt	Portugal				

The system also provides an analysis of which country, or server type, the request for information came from. This is given in Table 3 above.

Finally, the genetiX snowball site itself. Table 4 shows the usage for individual files since the site went on-line at the end of last year. The system, while logging all usage, only displays those files with more than 20 requests - hence the use of "<20" in the table. This also makes it very difficult to calculate a total usage figure for the site as a whole since not all file requests are given. To solve this problem I have adopted a system whereby I multiply the

page usage for the site (for files above 19 requests) by the ratio of total site usage to total site page requests. For this site that probably results in and underestimate of usage because of the high graphical content.

**Table 4: genetiX snowball Website Usage**

<i>Date</i>	15/12/ 98	05/01/ 99	26/01/ 99	04/02/ 99	02/03/ 99	29/03/ 99	14/04/ 99	18/04/ 99	19/04/9 9	
<i>No. days</i>	72	93	114	122	149	176	13	17	18	
Total site usage (for files accessed >19 times)	182	474	1,438	1,608	2,095	3,034	967	1,984	2,210	
Likely usage, inclusive of graphics (calculated)	678	1,922	6,220	7,098	9,852	14,656	4,302	8,436	9,489	
<i>Item filename</i>										
Site Main index	index.htm	75	206	361	404	528	754	230	382	408
Campaign main index	campaign.htm	25	69	138	152	209	308	140	237	251
Links page	links.htm	<20	44	78	89	132	186	54	96	98
Press release index	prelease.htm	<20	<20	39	42	54	75	27	51	53
'East Winch Farm' Snowball	artcl-ew.htm	<20	<20	<20	<20	<20	23	<20	<20	<20
'Model Farm Snowball' article	artcl-mf.htm	<20	<20	<20	23	20	33	<20	<20	<20
'Accountable, Open and Covert Actions' article	artcl-oa.htm	<20	<20	<20	<20	<20	20	<20	<20	21
'Ploughshares with a Spanner'	artcl-ps.htm	<20	<20	<20	<20	<20	20	<20	<20	<20
Info. about genetic snowball	gsinfo.htm	<20	<20	<20	<20	20	28	<20	30	32
Anonymous Bob's piece'	bob.htm	20	20	20	20	20	21	<20	<20	<20
'Boothby Graffoe' photo gallery	pic-bg.htm	<20	<20	<20	<20	<20	59	<20	<20	<20
'Model Farm' photo gallery	pic-mf.htm	<20	<20	<20	<20	<20	26	<20	21	22
Kathryn Tulip's statement	statem05.htm	<20	<20	<20	<20	<20	22	<20	<20	<20
Simon Chislett's statement	statem10.htm	<20	<20	<20	<20	<20	22	<20	<20	<20
Handbook main index	handbook.htm	48	146	216	232	284	359	121	242	267
'Acclaimer'	acclaim.htm	<20	34	53	58	69	87	33	65	76
How to use the handbook	howto.htm	34	56	78	83	101	120	48	80	91
Chapter 1	c1.htm	<20	39	69	76	69	119	39	74	82
Chapter 2	c2.htm	<20	31	50	56	71	89	27	60	70
Chapter 3	c3.htm	<20	25	42	47	62	78	27	56	63
Chapter 4	c4.htm	<20	28	42	52	71	87	31	54	61
Chapter 5	c5.htm	<20	22	35	40	60	69	20	42	46
Chapter 6	c6.htm	<20	27	37	41	59	74	25	48	56
Chapter 7	c7.htm	<20	<20	26	29	37	46	<20	34	38
Chapter 8	c8.htm	<20	<20	29	32	40	48	20	39	33
Appendix 1	a1.htm	<20	<20	29	32	43	50	<20	30	34
Appendix 3	a3.htm	<20	<20	<20	<20	26	34	23	38	42
Appendix 4	a4.htm	<20	<20	26	26	32	42	21	34	46
Appendix 5	a5.htm	<20	41	51	53	59	68	<20	40	43
Appendix 6	a6.htm	<20	<20	<20	<20	<20	<20	<20	22	25
Appendix 7	a7.htm	<20	<20	<20	<20	<20	<20	<20	24	28
Contacts	contacts.htm	<20	25	39	41	49	67	26	45	49
Glossary	gloss.htm	<20	<20	<20	<20	<20	<20	<20	23	27
Abbreviations	abbrev.htm	<20	<20	<20	<20	<20	<20	<20	22	24
Download handbook	download.htm	<20	<20	<20	<20	<20	<20	55	105	124

## **The Website and Monsanto's Injunction**

A copy of the injunction the Monsanto are seeking to make permanent was supplied to me by genetiX snowball. It is my view, having read the injunction, that the terms of the injunction violate my rights under Article 10 of the European Convention on Human Rights. The reasons for this are that the injunction seeks to restrict those bound by the injunction from

"organising, inciting, procuring, encouraging or training another or others to join or participate in any acts". This is clearly a breach of Article 10 since it protects "freedom of expression... include[ing] freedom to hold opinions and to receive and impart information and ideas without interference by public authority". The confirmation of the injunction by the Court would be interference by a public authority.

Although the Human Rights Act 1998 has still not been commenced, and is unlikely to be until late 2000 or early 2001, there still exists a violation of this right under the European Convention. We could also consider that the violation exists in UK law also since any review of the injunction would take some time to arrange - probably following commencement of the Act - and so the Court would have to consider the Human Rights Act in any case.

The injunction also requires that a list of those who have received the '*Handbook for Action*' should be provided to Monsanto. As I have just described, the genetiX snowball website is used by significant numbers of people from all over the world (see Table 3). The argument therefore that genetiX snowball should supply a list of those who have received the '*Handbook for Action*' in order that injunctions can be served is unrealistic. There exists a large, untraceable population of persons, in the UK and elsewhere, who possess a copy of the '*Handbook for Action*' (see Table 4). Such a requirement on those within genetiX snowball is therefore unreasonable.

In this instance we have a case not unlike that of the *Guardian and Observer* case<sup>4</sup>. The European Court of Human Rights was asked to rule on whether injunctions to prevent publication of material from Peter Wright's book, '*Spycatcher*', were a breach of the Convention. In making their deliberations, the ECHR made clear reference to the need to weight the balance between the two sections of Article 10:

*"49. The restrictions complained of clearly constituted, as was not disputed, an "interference" with [Observer/Guardian's] exercise of their freedom of expression, as guaranteed by paragraph 1 of Article 10 (art. 10-1). Such an interference entails a violation of Article 10 (art. 10) if it does not fall within one of the exceptions provided for in paragraph 2 (art. 10-2); the Court must therefore examine in turn whether the interference was "prescribed by law", whether it had an aim or aims that is or are legitimate under Article 10 para. 2 (art. 10-2) and whether it was "necessary in a democratic society" for the aforesaid aim or aims."*

In making a decision on the confirmation of this injunction, the Court must therefore decide if

---

<sup>4</sup> *Observer and Guardian v. the United Kingdom*, ECHR 51/1990/242/313, 1991.

the activities advocated within the handbook are so serious that a democratic society must restrict them. In my view the main determinant of this should be as to whether or not there exists an effective avenue within the law for dealing with the "offences" (I use the term in a restricted sense, since in genetiX snowball's view there exists a legal defence to the allegations of breaches of the law) advocated in the handbook. But additionally, in using possession of the handbook as identifying complicity in the acts against genetics test sites, and in considering the balance made in the Observer/Guardian case, the Court must consider whether genetiX snowball can be directly targeted as responsible for the damage to sites when so many copies of the handbook have been delivered anonymously over the Internet.

The Court must also consider whether or not the terms of the injunction are a reasonable intrusion into the rights conferred by Article 10 given the seriousness of the "offences". As stated by the ECHR:

*"64. It has nevertheless to be examined whether the actual restraints imposed were "proportionate" to the legitimate aims pursued."*

Given that the injunction will apply, according to Monsanto's wish, to all holders of the 'Handbook for Action', we have to divide our assessment of the merits of the injunction between two distinct 'user groups':

1. ***Those who hold the handbook, and are intent on carrying out the actions described in it.*** In my view, if persons in possession of the '*Handbook for Action*' were to carry out the activities as prescribed therein they would undoubtedly be arrested since the handbook advocates 'open' protests. Both the site owner, the genetics company involved and the police would therefore be notified, and able to take action against the individuals involved in the action. This could take the form of arresting those involved after the action has taken place, or through obtaining an *ex parte* injunction before the action takes place.
2. ***Those who hold the hand book, and have no intent at all of carrying out the acts described in it.*** In this case the effects of the injunction would clearly be a breach of Article 10, since to damage would take place, and therefore the effects of the acts described in the book can never outweigh the restriction of rights under Article 10.

In considering the effects of the injunction we must balance the possible effects of actions for which there exists sufficient legal remedies before and after the action takes place against the violation of the rights of those who would be collaterally affected by the terms of the

injunction.

## **In Conclusion**

In my view the Court cannot summarily decide whether or not the injunction applied for by Monsanto should be made permanent. This is on the grounds that:

1. It is not possible to assume guilty intent on the part of someone who holds a copy of a publication - it is a circumstantial inference. Without additional evidence, such as the active participation in damage to genetic test sites, the terms of the injunction would unreasonably bind those who campaign on genetic engineering through ordinary channels.
2. There has been no justification by Monsanto that the effect of the Court's decision in granting the injunction, and thereby creating a breach of the European Convention on Human Rights, is fair to those who have no intention to participate in damage to test sites, given that other legal remedies exist to them.
3. The genetiX snowball group maintain that there exists a lawful defence for the damage they have caused to test sites. Unless detailed examination is made of this case then those who do have intent to damage tests sites are being denied a fair hearing - which would also be a violation of Article 6(1) of the European Convention on Human Rights.

***I therefore request that you seek to hear a full examination of the case brought by Monsanto, the implications for the rights of those covered by the injunction who have no intention to damage test sites, and the legal defence claimed by those covered by the injunction who have damaged test sites***

**Paul Mobbs**

*April 19th, 1999*