

## **Summary of the Right to Repair Lawsuit Filed Against John Deere**

### **Overview**

In June 2022, nine class-action lawsuits that were filed against John Deere were consolidated in the US District Court for the Northern District of Illinois. The nine cases are being filed by farms based in Illinois, North Dakota, New York, Arkansas, Virginia, Alabama, Oklahoma, and Tennessee<sup>i</sup>. These suits allege that the John Deere Company violated the Sherman Act which prohibits any unreasonable restraints on trade and attempts to monopolize<sup>ii</sup>. The filed cases allege that John Deere violated this act by monopolizing “the repair service market for John Deere brand agricultural equipment with onboard central computers known as engine control units”<sup>iii</sup>. The John Deere company responded by saying that it supported its customers right to repair, however this support does not extend to the modification of embedded software because of associated risks and effects it could have on the aftermarket<sup>iv</sup>.

### **DOJ Action**

On February 13, the Department of Justice filed a statement of interest in which they urged the court to reject John Deere’s arguments and not throw out the case. While the Deere company argues that it did not violate antitrust laws as it did not hide restrictions from its customers or surprise them with restrictions, the DOJ rejected this argument stating that product manufactures including John Deere have monopolized necessary parts and diagnostic tools while also using internal software to “impede repairs with substantially identical aftermarket parts”<sup>v</sup>. The Biden administration is taking this stance as it believes this issue is restricting farmers ability to conduct business and burdening them with costly investments as well as lengthy repair times.

### **Court Precedent**

There are similarities between this case and the 1992 US Supreme Court Case Eastman Kodak Co. v. Image Technical Services, inc. which involved right-to-repair concerning copy machine parts. In this case, the Supreme Court determined that there is a distinction between services and parts. If a seller uses their market power to force a purchaser of a part to participate in a service that they would not have to if they were in a competitive market, then the seller could create a monopoly over the service which can be an antitrust violation<sup>vi</sup>.

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<sup>i</sup> “Court Consolidates Majority of John Deere Right-to-Repair Cases”, Northern AG Network, June 6, 2022, <https://northernag.net/court-consolidates-majority-of-john-deere-right-to-repair-cases/>.

<sup>ii</sup> “The Antitrust Laws”, Federal Trade Commission, accessed April 11, 2023, <https://www.ftc.gov/advice-guidance/competition-guidance/guide-antitrust-laws/antitrust-laws>.

<sup>iii</sup> “Court Consolidates Majority of John Deere Right-to-Repair Cases”.

<sup>iv</sup> “Court Consolidates Majority of John Deere Right-to-Repair Cases”.

<sup>v</sup> “Biden Administration Sides With Farmers on Right-to-Repair”, Northern AG Network, February 16, 2023, <https://northernag.net/biden-administration-sides-with-farmers-on-right-to-repair/>.

<sup>vi</sup> Eastman Kodak Co. v. Image Technical Services, Inc., 504 U.S. 451 (1992).