

# FTC and State AGs File “Right to Repair” Lawsuit Against Deere & Co.

A photograph of a modern building's curved glass facade, showing multiple stories of windows reflecting the sky. The building is on the right side of the page, partially overlapping the headline.

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Last week, the FTC and the Illinois and Minnesota Attorneys General brought suit against Deere & Company (Deere) challenging allegedly unfair equipment repair restrictions, which they claim resulted in higher equipment repair costs for farmers and unnecessary delays in fixing critical farming equipment.

At its core, the so-called “right to repair” allows consumers to fix, modify, or service products they purchase. But there is tension between allowing consumers to self-repair and requiring manufacturers, e.g., to facilitate self-repair options, such as by making repair tools or replacement parts available, or to honor warranties after a product has been serviced by a third party. Indeed, manufacturers often note that self-repair or modification by the consumer or a third party can lead to consumer safety risks and cybersecurity concerns, as well as infringement of intellectual property rights. Proponents of the right to repair – which included the Biden administration – argue that repair limitations are costly for consumers and bad for the environment.

The “right to repair” has been a focus of both the FTC and the plaintiffs’ bar in recent years. However, the concept dates back to the 1970s, including the Magnuson-Moss Warranty Act of 1975, which generally prohibits a company from voiding a product’s warranty if a customer uses a part made by someone else or has someone other than the dealer repair the product. In a May 2021 report, “Nixing the Fix: An FTC Report to Congress on Repair Restrictions,” the FTC

detailed its current concerns with repair restrictions, contending that they often push consumers to manufacturers' more expensive repair networks and/or cause them to replace products earlier than necessary.

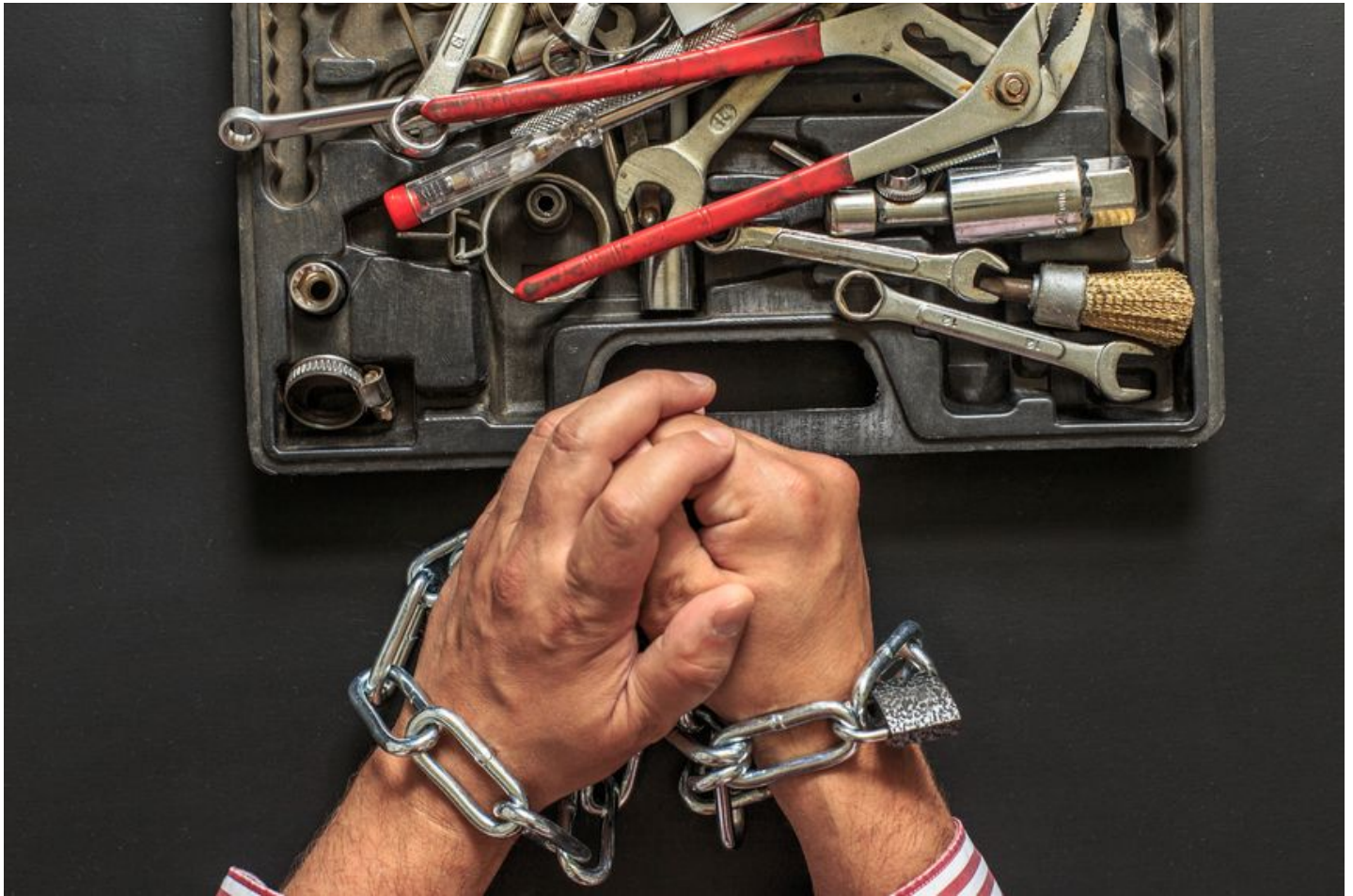
The complaint alleges that Deere is the "world's leading manufacturer of agricultural equipment" with a "dominant share of large tractor and combine sales" in the U.S. According to the FTC's complaint, as Deere has increasingly computerized its equipment, its repairs are no longer purely mechanical. Now, Deere's repair tools use interactive software to communicate with Deere equipment systems for equipment diagnosis and repair. Deere has monopoly power in the market for "fully functional repair tools capable of enabling all repairs on Deere agricultural equipment." However, Deere allegedly makes its fully functional repair tools available to only its dealer network, forcing farmers to use Deere dealers for repairs they could and would perform themselves or take to less expensive independent repair providers.

The FTC contends that Deere's practices constitute unlawful monopolization in violation of Section 2 of the Sherman Act, and the Illinois and Minnesota Antitrust Acts, as well as unfair methods of competition in violation of Section 5 of the FTC Act. The suit seeks, *inter alia*, injunctive relief requiring Deere to make its repair tools available to independent repair providers and owners of large Deere tractors and combines.

In an accompanying statement, (now former) FTC Chair Lina Khan explained that repair restrictions on farmers can result in unnecessary delays during planting and harvest windows, which can be devastating to farmers' businesses. She further noted that restrictions on repairs impact rural communities particularly hard, which may be hours away from authorized repair dealers.

In a dissenting statement, Commissioner Ferguson, joined by Commissioner Holyoak, asserted that the action was taken "in haste to beat President Trump into office" and called the filing "the result of brazen partisanship." Notably, President Trump appointed Ferguson as the new FTC Chair on his first day in office. Pointing to its existing and forthcoming tools and solutions, Deere has vowed to vigorously defend the case, which it describes as "baseless."

While this is the first FTC action against Deere for repair restrictions, the company has been defending against a similar consolidated putative class action in the Northern District of Illinois since 2022. A hearing is scheduled for January 24 that will address the impact of the FTC's case on that litigation.



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