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Syngenta to let Mega-Genome Patent Lapse: "Daisy-cutter" Patent Bomb Busted

Following 72 hours of negotiations by e-mail, telephone and in-person, the Swiss Gene Giant Syngenta confirmed to ETC Group last Friday, February 11, that it would allow its multi-genome patent application covering the flowering sequences in at least 40 plant species to lapse at the European Patent Office (EPO), the U.S. Patent and Trademark Office (USPTO) and around the world. Syngenta's announcement follows a month-long campaign launched by ETC Group and supported by farmers' organizations, trade unions and other civil society organizations.

The patent was called the "daisy-cutter" after the world's largest conventional bomb, which has parachuted from US Air Force cargo planes to clear troop-landing sites in Vietnam and during the Gulf and Iraq Wars. The daisy-cutter bomb explodes about three feet above the ground and delivers "shock and awe" by destroying everything living within a radius of 1000 feet. The Swiss company's patent application (WO03000904A2/3) claims, among other things, discovery of the DNA sequence coding for the flowering of the rice crop. Beyond rice, however, the company also claims the sequence as it appears in many other major food crops from wheat to bananas. "Syngenta's application even claimed monopoly over the flowering process in yet-to-be-discovered species that use the same sequence," says Pat Mooney ETC Group's Executive Director. Mooney met with Syngenta in Bern, Switzerland last Thursday and received a telephone call from the company Friday morning confirming it would let the patent application lapse.

Mooney and Andrew Bennett of the Syngenta Foundation debated the patent at a Swissaid Conference on Gene Technologies in the Swiss capital before an audience of 240 government- and civil society- representatives including the Minister of Agriculture of Zambia and a number of other Swiss corporation officials. Hope Shand of ETC Group wrote to Syngenta on January 25th calling upon the company to abandon its patent claims. The company replied in an e-mail dated February 8th suggesting that the company was not pursuing the patent in developing countries. "However, it was ambiguous about whether or not it would maintain its applications in Europe and the United States," Mooney said in the debate. Following the public encounter, Mr. Bennett said he would attempt to clarify the situation as soon as possible. The February 11th phone call from Syngenta made clear that the patent application will be allowed to lapse around the world. Subsequently, the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF) in Geneva also received a

letter from the Corporation confirming that the patent application will be allowed to lapse.

More Mega-genome Patents Pending? "We're delighted that the patent is being abandoned," says Pat Mooney now back in Ottawa, "but we are concerned that there are still other mega-genome patents out there held by this company and others that could pose a major threat to food security. We need a commitment from the Gene Giants that mega-genome claims will be withdrawn everywhere."

Systems Failures – WIPO and EPO: Prior to the January 10th release of its *Communiqué* (www.etcgroup.org/article.asp?newsid=493), ETC Group contacted the EPO, the USPTO and the World Intellectual Property Organization (WIPO) asking their help in rejecting the patent. "We were encouraged that both WIPO and the EPO responded quickly and rather sympathetically to our concerns," says Kathy Jo Wetter of ETC Group's U.S. office. "On the other hand, we were shocked to find that not only were these intergovernmental bodies powerless to intervene in a process that would attack world food security, but also that any decisions made by the EPO would not automatically be passed on to the patent offices of those developing countries giving national consideration to Syngenta's application. While we were fairly confident that the EPO would reject the most outlandish aspects of the claims – conferring a monopoly on the flowering mechanism for 40 species – if the EPO rejection was not communicated voluntarily by the company, the other countries in the Patent Cooperation Treaty associated with the EPO would have no way of knowing. It is often the case that patent offices in Africa, Asia and Latin America – not unlike their European and American counterparts – are overstretched by the sheer number and technical complexity of patent claims and sometimes approve patents without close examination. We need to talk to governments at the EPO and WIPO about how to change their monitoring systems," says Wetter.

Silence of the Lambs – FAO and CGIAR: ETC Group also wrote, in the first week of January, to the Director-General of FAO and the Chair of the Consultative Group on International Agricultural Research (CGIAR) asking them to intervene against the patent in defense of world food security. "It is shameful that we heard back from the EPO, WIPO and the Company, but neither FAO nor CGIAR has yet to lift a finger to defend the interests of the world's hungry," Pat Mooney insists. "These organizations need to get their act together."

The Patent-too-far: "As much as we welcome Syngenta's offer to let this patent application lapse, we believe the company should now actively withdraw its applications in every jurisdiction to avoid risk and uncertainty. Syngenta must also examine its portfolio of pending patents and withdraw any that have similar mega-genome claims. National patent offices should also act immediately to reject any pending claims of this nature," Pat Mooney concludes from Ottawa. "The bottom line is that this company sought monopoly control over 40 major food crops. Had the patent been granted, the company's control would have been legal and enforceable and would have spelled disaster for world food security. Once a patent is granted it could take more than half the lifetime of the patent to get it rescinded."

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