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## **Monsanto's Soybean Monopoly Challenged in Munich**

*European Patent Office Will Decide Fate of Species-Wide Soybean Patent on 3 May 2007*

On 3 May 2007 ETC Group (a Canadian-based international civil society organization – formerly known as RAFI) together with “No Patents on Life!” and Greenpeace will continue a 13-year legal battle against one of biotech’s most notorious patents. At an appeal hearing at the European Patent Office in Munich, civil society organizations will argue that Monsanto’s patent (European Patent No. 301-749) on *all* genetically engineered soybeans – unprecedented in its broad scope – must be revoked. “No patent symbolizes the brokenness of the patent system better than Monsanto’s species-wide patent on genetically engineered soybeans,” said Hope Shand of ETC Group. “Monsanto’s patent is both technically flawed and morally unacceptable,” said Shand.

Critics refer to EP 301-749 as a “species-wide” patent because its claims extend to all biotech soybean seeds — irrespective of the genes used or the genetic engineering technique employed. The patent, initially awarded to US-based biotech company Agracetus in 1994, was acquired by Monsanto when it purchased Agracetus in 1996.

According to industry sources, Monsanto’s biotech seeds and traits accounted for almost 90% of the worldwide area planted to genetically modified soybean seeds in 2005. What’s more, genetically engineered soybeans reportedly account for almost 60% of the global soybean area – an increasingly dominant share of one of the world’s most important food and commodity crops.

“The statistics speak for themselves,” said Greenpeace’s patent expert Dr. Christoph Then. “A single company has been awarded sweeping monopoly control over one of the world’s most important food crops.”

ETC Group’s Shand asserts, “Monsanto’s patent is undermining the economic security of farming communities and jeopardizing access to seeds – the first link in the food chain. Whoever controls the seeds controls the food supply.” According to a ranking of the world’s largest seed companies released today by ETC Group, Monsanto is the world’s largest seed company, with over 20% of the global proprietary seed market. **ETC Group’s ranking of the top 10 seed companies is available here:**  
[http://www.etcgroup.org/en/materials/publications.html?pub\\_id=615](http://www.etcgroup.org/en/materials/publications.html?pub_id=615)

The livelihoods of Argentina’s soybean farmers are directly affected by Monsanto’s species-wide patent because the company is using its exclusive monopoly to deny Argentine soybeans from entering European markets. Monsanto alleges that Argentine farmers aren’t paying royalties to Monsanto for using the company’s patented soybean

seeds.

Critics point out that Monsanto's defense of its patent is not surprising, but it is hugely hypocritical. Before Monsanto acquired the patent in 1996, the company vigorously *opposed* the patent – which was then owned by Agracetus. In 1994 Monsanto submitted an exhaustive, 292-page opposition statement to the EPO that shredded the technical merits of Agracetus's soybean patent. Monsanto's lawyers wrote that the soybean patent should be "revoked in its entirety," is "not...novel," "lacks an inventive step," and "sufficient disclosure [of scientific method] is woefully lacking." But after Monsanto acquired Agracetus in April 1996, Monsanto withdrew its challenge, reversed its position and announced that it would defend its newly acquired patent!

In 2003 – more than nine years after the patent was first awarded and legally challenged – an EPO patent tribunal heard legal arguments against the notorious patent. Opponents were shocked when EPO upheld Monsanto's monopoly in 2003. Today, nearly two-thirds of the patent's 20-year term has expired. On 3 May 2007 EPO's appeal tribunal will have one last chance to revoke Monsanto's unjust monopoly on one of the world's major food crops.

"If EPO fails to revoke the patent after 13 years of bureaucratic delays it will simply confirm that corporations can use unjust patents to monopolize markets, destroy competition and jeopardize worldwide struggles for food sovereignty," said Hope Shand of ETC Group.

"Case-by-case legal battles against immoral and unjust patents is an unworkable strategy – Europe needs new patent legislation that expressly prohibits patents on life," said Ruth Tippe of "No patents on Life!"

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ETC Group's ranking of the world's top 10 seed companies:  
[http://www.etcgroup.org/en/materials/publications.html?pub\\_id=615](http://www.etcgroup.org/en/materials/publications.html?pub_id=615)  
For more information about international campaign against patents on seeds:  
[www.no-patents-on-seeds.org](http://www.no-patents-on-seeds.org)