FET challenges U.S. patent on India's natural pesticide

BYLINE: Mara Bovsun

SECTION: Pg. 1

LENGTH: 677 words

The Foundation on Economic Trends (FET) last week fired the first shot in its war on "genetic colonialism," by petitioning the Patent & Trademark Office to revoke a three-year-old patent on a centuries-old pesticide derived from the neem tree, a tall evergreen known in India as the "blessed tree."
If FET succeeds, this patent challenge could crimp the ability of companies prospecting in ancient folk traditions for new products to get patents on variations of old themes.
"It's the question of usurpation of native knowledge," said FET President Jeremy Rifkin. "It's the question of who will control the gene pool."

Rifkin said that this action opens a major, long-term FET campaign to challenge international intellectual property laws established by the World Trade Organization's (WTO) new guidelines.
"We're going to be all over this," he said.
FET's petition, signed by a coalition of 200 non-government organizations from 41 countries challenges the legality of W.R. Grace patent, #5,124,349, that protects a stable form of the active ingredient of the neem pesticide, azadirachtin.
The FET maintains that the patent is invalid on the basis of prior art, meaning that the product and methods of producing it were described elsewhere, in hundreds of scientific publications and in decades Indian traditional teaching, before Grace's scientists cooked it up.
The Indian folk recipe for neem pesticide involves mashing and soaking the neem tree seeds and then skimming off the insect-repelling emulsion.
"Whatever little incremental change W.R. Grace put on this is small compared to the native knowledge that has been accumulated generation after generation on the use of this tree," said Rifkin. "It's really a question of genetic colonialism, when companies try to usurp native resources and native knowledge and add a small increment to it and then claim a patent over part of the process."
Indian farmers are concerned that W.R. Grace will exert so much pressure obtaining seeds for commercial production that it will deplete supplies needed by local agricultural cooperatives, said Rifkin.
"And they are worried about the long-run," said Rifkin. "This is a key test of the WTO on intellectual property." India, he said, does not honor life-form patents.
Grace's European patent on neem pesticides is also under fire, according to FET.
In a statement, Grace called FET's charges "incorrect and without merit." The company said that its U.S. patent in no way restricts the use of neem products by the Indian people and it does not intend to seek a patent in India. In addition, the patent covers only a formulation of the active ingredient that insures shelf stability, so that the product can be shipped.
Grace has been producing neem-based pesticides under the trade name Neemix for crops, Margosan-O for professional horticultural applications and BioNeem for home gardens. Neemix is sold mostly in the U.S. and Middle East, and it is estimated to bring in only about $60 million annually in the U.S. Other companies, including six Indian firms, are developing products based on the neem tree. Its bark, leaves, flowers and seeds yield treatments for diseases ranging from leprosy to constipation. It also has
been used as a natural source of toothpaste and contraceptives. It has, in fact, so many uses that Indians think of it as sacred.

The patent has sparked outraged protests in India. Thousands have reportedly staged mass demonstrations against both U.S. companies developing neem-based products and against aspects of the proposals in the GATT agreements that would homogenize worldwide patent laws, making India conform to Western standards, according to Vandana Shiva, president of The Research Foundation for Science Technology and Natural Resource Policy.

"To farmers in India, the neem tree patent represents an expropriation of their surroundings and an attack on their way of life," said Shiva, who delivered 100,000 Indian signatures for the FET petition.

URL: http://www.platts.com <http://www.platts.com/>

SUBJECT: PATENTS (91%); CHEMICALS PATENTS (90%); INTELLECTUAL PROPERTY LAW (90%); PETITIONS (90%); PESTICIDES (90%); TRENDS (89%); INTERNATIONAL ECONOMIC ORGANIZATIONS (78%); PRIOR ART (77%); NONGOVERNMENTAL ORGANIZATIONS (73%); INTERNATIONAL TRADE (73%); FOLKLORE (70%); AGRICULTURE (60%);

TICKER: GRA (NYSE) (55%);

INDUSTRY: NAICS325131 INORGANIC DYE & PIGMENT MANUFACTURING (55%); SIC2819 INDUSTRIAL INORGANIC CHEMICALS, NEC (55%);

PERSON: JEREMY RIFKIN (70%);

ORGANIZATION: PATENT & TRADEMARK OFFICE (84%); PATENT & TRADEMARK OFFICE (84%); WORLD TRADE ORGANIZATION (83%); WORLD TRADE ORGANIZATION (56%);

COUNTRY: INDIA (95%);

COMPANY: W R GRACE & CO (55%); W R GRACE & CO (55%); PATENT & TRADEMARK OFFICE (84%); PATENT & TRADEMARK OFFICE (84%); WORLD TRADE ORGANIZATION (83%); WORLD TRADE ORGANIZATION (56%);

LOAD-DATE: September 19, 1995

LANGUAGE: ENGLISH

Copyright 1995 McGraw-Hill Inc.