

100501 South African community fights biopiracy

German pharmaceutical Schwabe announces withdrawal of 5 pelargonium patents

<http://www.biosafetyafrica.org.za/index.php/20100426305/Major-breakthrough-in-the-fight-against-biopiracy-Pelargonium-patents/menu-id-100029.html>

The *African Centre for Biosafety* (ACB), the *Berne Declaration* (BD) and the *Church Development Service* (EED) welcome the announcement by Schwabe today that it will not pursue five pelargonium related patents granted to it by the European Patent Office EPO. Mariam Mayet, *African Center for Biosafety* (ACB): "Nevertheless, we regret that such action comes only after such patents have been challenged by us".

Mayet announced that the Alice community's battle will continue for appropriate relief as a result of Schwabe's unlawful use of the community's traditional knowledge for the production of *Umckaloabo*. "The *Alice Community* has a real and meaningful stake in the future conservation and sustainable use of the pelargonium species in the South Africa and the protection of its Traditional Knowledge. The status quo will have to change including power relationships and ownership issues", Mayet concluded.

"The next step will be to fight biopiracy beyond the patent system", says Francois Meienberg of the Swiss based Berne Declaration. "Biopiracy is about unlawful use, not only about patents. Users of biological resources and traditional knowledge must comply with the provisions of the *Convention on Biological Diversity*, especially those relating to Prior Informed Consent on Mutually Agreed Terms, including in relation to Benefit Sharing." Charity is not what is needed. For as long as real benefits are not transferred on mutually agreed terms by users and providers, the problem of biopiracy will not be solved.

"The fact that Schwabe will not pursue the pelargonium patents is a major breakthrough in our fight against biopiracy" Michael Frein, Church Development Service (EED) comments. "Schwabe's pelargonium patent on extraction methods was successfully challenged. But it is impossible to follow every case of biopiracy with the same efforts. The pelargonium case highlights the need for a strong legally binding international agreement that is able to prevent biopiracy and provides comprehensive legal certainty for the victims of biopiracy."

On 27 January 2010, the European Patent Office revoked a patent related to the use of Pelargonium. Among the opponents were the *African Center for Biosafety*, (South Africa) and the *Berne Declaration* (Switzerland), supported by the *Church Development Service* (EED). On 20 April the written decision was published by the EPO. On 26 April 2010, Schwabe Pharmaceuticals announced that it will not pursue five pelargonium related patents any more.

Among these five patents are all four that have been challenged, including the one that already has been revoked by the European Patent Office. At the same time Schwabe continues to hold on to two pelargonium patents pending before the EPO.

Berne Declaration and Church Development Service (EED)