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Sixth Session of the Permanent Forum on Indigenous Issues New York

May 14-25, 2007

**Joint Statement of Native Children's Survival, American Indian Law Alliance,
Buffalo River Dene Nation, Indigenous World Association, Hawaiian Institute For
Human Rights**

Agenda item 9: Future work of the Permanent Forum including emerging issues.

Greetings Madam Chair, members of the Permanent Forum, our indigenous brothers and sisters, and to all in attendance here today. We wish to respectfully submit a few remarks and recommendations under item 9 with regard to specific private sector issues.

We would like to call your attention to the participation of corporations in relation to indigenous peoples' intellectual property rights, traditional knowledge, resources, images, names and likenesses and the NGOs providing them access to the meetings of the permanent forum.

As one example, in 2004, a complaint was filed before the Supreme Court of the State of New York, County of New York, titled **ROBBY ROMERO v. AVEDA CORPORATION** for two causes of action. The first cause of action sought compensation due to Robby Romero for his services in the creation and development of Aveda Corporation's personal care products sold under the name "Indigenous", and the second cause of action asked that Aveda Corporation specifically perform its obligations to Indigenous grass roots organizations...that all charitable donations resulting from sales of the Personal Care Product Line be exclusively distributed to Indigenous grass roots organizations.

On May 24, 2006, Justice Herman Cahn Ordered that the first cause of action and second cause of action be severed and tried separately. On February 7, 2007, a jury verdict was rendered in favor of Robby Romero and against the Aveda Corporation. The second cause of action is pending.

We are concerned that there are Organizations receiving charitable donations from Aveda Corporation which are providing credentials and access to them to attend the PFII sessions. For

instance, Aveda Corporation has used its access to among other things, host a lavish luncheon that took place during the 5th session of the PFII...on the same day the trial was scheduled to commence. A public relations effort in the shadow of the Permanent Forum. And, co-hosted a parallel side event entitled "Dialogue for the future: Indigenous Entrepreneurship, Opportunities and Challenges".

And last, prior to filing the lawsuit, Indigenous Peoples protested the "Indigenous" trademark of the product line, and we expressed our concerns to Aveda. And although in May 2004 Aveda Corporation communicated to its SPA and salon customers that Aveda was discontinuing the "Indigenous" collection as a result of those complaints, and that actions were being taken to abandon the trademark, the product line continues to be sold under the name "Indigenous" and also under a new name "Inspiritu".

It is our opinion that this type of business practice should no longer be tolerated and certainly must not be allowed to commence during the PFII. Furthermore, Indigenous Peoples should not be used in a "conquer and divide" manner pitting one indigenous individual/group against the other.

Unfortunately, there are corporations in general that have been enriched from the use of Indigenous Peoples' natural resources, culture, philosophy, creativity, resources, intellectual property, traditional knowledge, images, names and likeness. And often, those corporations manage to circumvent Indigenous Peoples' rights to free, prior, and informed consent and to benefit sharing.

Therefore, Madam Chair, we would like to make the following recommendations for the future work of the Permanent Forum:

1. That the Permanent Forum restrain NGOs using their ECOSOC status with the PFII to provide Corporations access to Indigenous Peoples, Nations and Organizations for the financial exploitation of Indigenous culture, philosophy, creativity, resources, intellectual property, images, names and likeness; or to provide this forum as a vehicle for corporations to promote themselves for bottom line profits at the expense of Indigenous Peoples.

2. That the PFII in conjunction with the OHCHR, WIPO, the Special rapporteur on human rights and fundamental freedoms of indigenous peoples develop guidelines regarding corporations' activities with indigenous peoples that contain provisions recognizing indigenous peoples' right to Free, Prior and Informed Consent, intellectual property rights, traditional knowledge, collective rights over their lands and natural resources. These guidelines should also contain provisions dealing with access to benefit sharing and impact assessment measures.

Thank you Madam Chair.