

**UNITED NATIONS PERMANENT FORUM ON INDIGENOUS ISSUES**  
**Eleventh Session, May 7-15, 2012, New York City**

**Joint Statement of Indigenous Peoples Regarding the World Intellectual Property  
 Organization Intergovernmental Committee On Genetic Resources, Traditional  
 Knowledge & Folklore**

Submitting Organizations: Indigenous Peoples Council on Biocolonialism (IPCB), Fourth World Center for the Study of Indigenous Law and Politics - University of Colorado at Denver, American Indian Movement of Colorado, TONATIERRA, Seventh Generation Fund for Indian Development (SGF), American Indian Law Alliance (AILA), Ke Aupuni O Hawaii, The Kaoni Foundation, Indigenous World Association, Chihene Ndeh, Māori Caucus comprising representation from the Te Rūnanga o Te Rarawa, the Ngāti Kuri Trust Board, Te Rūnanganui-a-Iwi o Ngāti Kahu and Ngāti Kahungunu Iwi Incorporated, Winnemem Wintu Tribe, Comunidad Integradaora del Saber Andino (CISA), (others may be added...)

Supporting Indigenous Peoples and Nations, and organizations (not registered at UNPFII-11): Rapa Nui Parliament, Network for Native Futures, Consejo de Todas las Tierras, AIPIN (others may be added...)

Thank you Mr. Chairman,

This statement is made on behalf of the Indigenous Peoples and Nations, and Indigenous organizations listed above. We present the following statement and recommendations with grave concern as to how WIPO may negatively affect our rights to our Indigenous knowledge systems and genetic resources which have been developed and maintained by our Peoples over millenia.

As the original, free and independent peoples of our lands and territories, we reaffirm our right to self-determination, and our spiritual and cultural relationship with all life forms, knowledge systems, and ways of life within our traditional lands and territories.

We are the guardians of every aspect of our cultural heritage passed down from our ancestors from generation to generation and we reaffirm our responsibility to protect and perpetuate this knowledge for the benefit of our peoples and our future generations

Indigenous Peoples and Nations are the protectors and holders of every aspect of our cultural heritage including the subject matter under negotiation at WIPO: traditional knowledge, traditional cultural expressions, and genetic resources.

A careful review of WIPO processes indicate it is clear that WIPO's member states wish to subsume Indigenous Peoples knowledge systems and cultural heritage into the intellectual property framework of states and transnational corporations. We ask WIPO, under what moral

and legal authority do you presume to possess a right to impose an intellectual property rights regime upon Indigenous Peoples and Nations knowledge and resources?

Candidly, the work undertaken at WIPO is solely for the benefit of states that want access and proprietary rights to Indigenous Peoples' knowledge and resources; WIPO seeks to protect its theft of already appropriated GR, TK and TCEs from Indigenous Peoples that is now considered to be in the public domain, or otherwise protected with state/corporate intellectual property rights for their own commercial benefit. As such, WIPO reflects a modern day band of pirates and thieves continuing the process of theft from Indigenous Peoples' lands and territories. WIPO is actively promoting and advancing the racist, ongoing process of the Doctrine of Discovery.

We say, ¡no mas!, no more! WIPO has no right to take any more from us –not one more drop of blood, not one more seed, not one more song or story or teaching. Nothing!

### **Issues Regarding Indigenous Peoples' Rights at WIPO**

Very serious issues exist regarding Indigenous Peoples participating in the IGC 18<sup>th</sup>, 19<sup>th</sup>, and 20<sup>th</sup> Sessions that unanimously expressed our dissatisfaction with our unequal participation in the deliberations of the international instruments(s) under negotiation in the WIPO IGC.

On February 20, 2012 nearly all of the Indigenous delegates in attendance decided to withdraw from active participation in the WIPO negotiations because the right of Indigenous Peoples, as Peoples and Nations, to participate as equals in the negotiations continues to be denied. Indigenous Peoples have seen a continual process of diminishing our participation in key small working groups, and our text proposals require the support of at least one state to remain on the table. Without state support, Indigenous Peoples' proposals are ignored. State vetoes of Indigenous Peoples' participation and proposals is intolerable and unacceptable.

The single most significant and non-negotiable demand by Indigenous Peoples is that, at a minimum, WIPO amend its rules of procedure to ensure the full and equal participation of Indigenous Peoples in all processes that affect us. Until that change happens, we cannot conscientiously participate in a process that will continue to undermine the rights of Indigenous Peoples, and threaten our future generations.

Without a change in the WIPO rules of procedure, it is completely unrealistic for Indigenous Peoples to engage in any meaningful way in the WIPO process. As representatives of our Nations, we cannot continue to sit in meetings where we are diminished and silenced, while thieves discuss taking the most fundamental elements of our cultural heritage for their own use.

Within the current WIPO process, Indigenous Peoples are being denied meaningful participation on matters directly affecting us, resulting in the denial of Indigenous Peoples' rights as articulated within international legal norms, conventions and within sections 18, 19, 25, and 26 of the United Nations Declaration on the Rights of Indigenous Peoples. The WIPO process is dehumanizing and denying our right to participate effectively and with integrity as Indigenous Peoples and Nations.

We challenge WIPO to answer the following specific points: 1. What is your specific definition of the term "Indigenous" in your draft instruments? Does the use of the term "Indigenous" mean that you specifically recognize the self-determination of Indigenous Peoples and Nations? Are you willing to change and to acknowledge Indigenous Peoples as rights holders in WIPO negotiations? If not, why not?

### **Recommendations**

1. We call upon the UNPFII to request that WIPO amend its rules of procedure to ensure the full and equal participation of Indigenous Peoples in all processes that are effecting them, and to ensure the full and equal participation of Indigenous Nations and Peoples in all the WIPO processes including the IGC, the General Assembly and Diplomatic Conference. We call on the UNPFII to inform WIPO that if it does not change its rules of procedure, WIPO is in violation of both the letter and the spirit of the UN Declaration on the Rights of Indigenous Peoples.
2. We recommend that the UNPFII make it clear to WIPO that it has no authority to regulate Indigenous Peoples' traditional knowledge nor does it have a right to access to such and associated genetic resources, and that those remain under the control of Indigenous Peoples.
3. We recommend that UNPFII and the United Nations call for dismantling the WIPO IGC negotiations and instead to mandate the development of true international mechanisms to protect Indigenous Peoples' systems for protecting our traditional knowledge and genetic resources and protecting such rights.
4. We call upon all Indigenous Peoples to stand in solidarity with indigenous peoples who are standing in opposition to this 21<sup>st</sup> Century version of the Doctrine of Discovery, and withdraw our active participation in the WIPO processes on GRTKF unless and until the States change the rules of procedure to permit our full and equal participation at all levels of the IGC, and until the instruments recognize and are consistent with the existing international frameworks for the rights and interests of Indigenous Peoples and Nations within the scope of the IGC.
5. We recommend that Indigenous Nations and Peoples set our own legal standards for the protection of our traditional knowledge, traditional cultural expressions, and genetic resources and we insist that the UN inform WIPO that it must respect Indigenous Peoples' traditions, practices and laws on these issues.