CENTER FOR INTERNATIONAL ENVIRONMENTAL LAW

COALITION FOR AMAZONIAN PEOPLES AND THEIR ENVIRONMENT

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U.S. PATENT OFFICE ADMITS ERROR, REJECTS PATENT CLAIM ON SACRED "AYAHUASCA" PLANT

Indigenous Leaders, Legal Experts Hail Decision to Reject "Flawed Patent" on Sacred Plant from the Amazon, But Call for Reforms to Prevent Future Abuses

Washington, D.C. — Indigenous peoples from nine South American countries won a precedent-setting victory yesterday, as the U.S. Patent and Trademark Office (PTO) rejected the patent issued to a U.S. citizen for the "ayahuasca" vine.

The plant, *Banisteriopsis caapi*, is native to the Amazonian rainforest. Thousands of indigenous people of the region use it in sacred religious and healing ceremonies, as part of their traditional religions.

The PTO's decision came in response to a request for reexamination of the patent filed with the PTO in March by the Coordinating Body for the Indigenous Organizations of the Amazon Basin (COICA), the Coalition for Amazonian Peoples and Their Environment, and lawyers at the Center for International Environmental Law (CIEL).

"Our Shamans and Elders were greatly troubled by this patent. Now they are celebrating. This is an historic day for indigenous peoples everywhere," says Antonio Jacanamijoy, General Coordinator of COICA. According to David Rothschild, director of the Amazon Coalition, "Given that ayahuasca is used in sacred indigenous ceremonies throughout the Amazon, this patent never should have been issued in the first place."

The PTO based its rejection of the patent on the fact that publications describing *Banisteriopsis caapi* were "known and available" prior to the filing of the patent application. According to patent law, no invention can be patented if described in printed publications more than one year prior to the date of the patent application. William Anderson, director of the University of Michigan Herbarium, agreed that the PTO needs to improve its procedures for researching applications.

CIEL lawyer David Downes noted that "while we are pleased that the PTO has rejected this flawed patent, we are concerned that the PTO still has not dealt with the flaws in its policies that made it possible for someone to patent this plant in the first place." He explained that "the PTO needs to change its rules to prevent future patent claims based on the traditional knowledge and use of a plant by indigenous peoples." He also argued that "the PTO should face the issue head-on of whether it is ethical for patent applicants to claim private rights over a plant or knowledge that is sacred to a cultural or ethnic group."

In a separate proceeding at the PTO, the three groups have called for changes in PTO rules. They argue that the PTO should require that patent applicants identify all biological resources and traditional knowledge that they used in developing the claimed invention. Applicants should also disclose the geographical origin, and provide evidence that the source country and indigenous community consented to its use.