

## Abstract – Biopiracy: a threat to Indigenous Biological Legacies – Franco Benussi

A growing concern in the field of biodiversity is the granting of good and bad patents. Relevant case law, predominantly originated from Central and Southern America, paves the way to a more insightful look at issues related to the broader effects of deprivation of more than one relevant product in the field of food supplements. International organizations have awakened at a rather late stage of the present situation which is intensely covered in systematic setbacks which only recently are addressed by FAO and others. Even if they sometimes collide, the Convention on Biodiversity and TRIPs most certainly tackle the issue in the most technical manner and, hence, represent the most far reaching outposts on the topic from a strictly legal point of view. One of the most cumbersome issues related is the US Patent Act, which allows all novelty-destroying events inapplicable as such if these occur outside the US borders. While waiting for further technicalities to step in and aid the countries with little or none market leverage, TRIPs Agreement is one of the only means of deterrence the developing countries have, to resist forms of “biological depredation” even though encompassing Intellectual Property only and representing a tool to take a fair and reasonable share in this global economy.

La concessione di brevetti come causa indiretta di aggressione e i brevetti legittimi. Noti casi giurisprudenziali in proposito. Organizzazioni che di questo si occupano (FAO, ecc) e la loro scarsa incisività nella protezione e rispetto della biodiversità e della conoscenza tradizionale. La Convenzione sulla Biodiversità, TRIPs, loro conflitto e soluzioni possibili. Patent Act americano: che non riconosce come prior use tutto ciò che rappresenta un atto che distrugge la novità, al di fuori degli Stati Uniti. Modifica dei TRIPs che danno tutela – seppur solo nell’IP – a paesi in via di sviluppo permettendo loro di partecipare agli utili del contesto internazionale che, altrimenti, sono solitamente depredati spesso e in varie forme, da paesi maggiormente industrializzati.