

Submission to the Parliamentary Committee into the 'Patent Amendment (Human Genes and Biological Materials) Bill 2010'

We make this submission in relation to the private members' bill entitled '*Patent Amendment (Human Genes and Biological Materials) Bill 2010*' (the "Bill") which was introduced in the Senate in November 2010.

By way of background, our company is actively involved in commercialising Australian developed technologies and is a leading funder of research, development and technology commercialisation in Australia. Many of the companies we have supported at an early stage have developed outstanding, internationally successful technologies. In the biotechnology area these organisations include:

- **Cellestis Ltd:** a leader globally in the diagnosis of tuberculosis ;
- **Pharmaxis Ltd:** developer of treatments and diagnostic products for auto-immune diseases including cystic fibrosis, MS and asthma;
- **Glutagen Pty Ltd:** developer of enzyme based therapies for the treatment of gluten intolerance and coeliac disease;
- **Avipep Pty Ltd :** uses its antibody technologies to develop treatments and diagnostic tests for specific cancers;
- **Mesoblast Ltd:** a global leader in the development of stem cell therapies;
- **Patrys Ltd :** developer of anti-body therapeutic technology for cancer treatment.

For Australia, significant economic, medical and social benefits ensue from having an active and successful biotechnology industry. One of the greatest challenges Australian technology researchers have always faced is the availability of commercially relevant levels of funding.

At the heart of virtually every commercial funding or investment decision in the biotechnology industry is an assessment of the scope, strength and life of the patent protection in place for the relevant technology. For a proven technology, put simply, the stronger the legal and commercial protections afforded by patent laws, the more likely that technology will be to attract the investment required to continue research and to commercialise the technology. Conversely, important technologies without patent protection will very often struggle to obtain significant early stage investment

due to the significant risk that a commercial level of return will not be available for the early investor.

It is in the above context that we are particularly concerned about the Bill. Whilst the Bill is no doubt well intentioned, it is our considered view that it:

- will adversely affect the funding potential of many Australian biotechnology companies; and
- will not change in any material way the application of existing patent laws to inventions that are not novel, such as genes .

If it will assist the Committee, we are able to provide:

- a current example of a valuable biotechnology (which is undergoing a clinical trial at a major Melbourne hospital), the development of which is likely to be seriously hampered or even halted if this Bill is enacted.
- a detailed analysis of the commercial and technical decision making processes involved in funding biotechnology research and development.

We strongly request that all Parliamentarians reject this Bill as it will harm Australia's technology researchers and may ultimately lead to a diminution of the health care available to all Australians.

Yours faithfully ,

John Bennetts

Director

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