



A.B.N. 78 098 509 972
Level 1, 159 Dorcas Street, South Melbourne, Victoria, 3205
Phone: 03.8606.3400 Fax: 03.9686.9866

By email (community.affairs.sen@aph.gov.au)

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Committee Secretary
Senate Legal and Constitutional Committees
PO Box 6100
Parliament House
Canberra ACT 2600
Australia

**Submission to Senate Legal and Constitutional Committee Inquiry into
the Patent Amendment (Human Genes and Biological Materials) Bill 2010**

Dear Sir/Madam

I provide the following submissions in relation to the Patent Amendment (Human Genes and Biological Materials) Bill 2010.

My Company

I am a Director of SciVentures Investments Pty. Ltd. ("SciVentures").

SciVentures is an Australian-owned and operated funds management company. It was established in April 2002. SciVentures currently operates primarily in the start-up new business space in a range of high technology disciplines. SciVentures is a recipient of an Australian Federal Government license under its Pre-Seed Fund Program.

The Commonwealth Government's Pre-Seed program has as its target the commercialization of research outcomes that are generated by Australian Universities and Commonwealth-owned research agencies. SciVentures believes that Australian researchers often do produce globally competitive outcomes. However, there is a perception that these outcomes may not be able to achieve their deserved commercial potential because of lack of funding and resources available in Australia to support very early stage opportunities. This is due to the combination of the associated risk and the effort required.

The Commonwealth Government has aimed to address these risk and value creation issues through the structure of the Pre-Seed Fund program. The program has been



designed to be attractive to the private sector, which is able to leverage the Commonwealth investment and thus participate advantageously in the excess returns that may be generated.

The pre-seed fund has been designed to bridge the gap that exists between current forms of private capital investment in Australia and the point at which breakthrough technology outcomes are recognized within eligible institutions.

The SciVentures pre-seed fund is a true pre-seed fund that has been designed to invest in the earliest recognized potential of a research outcome. Thus, the fund is designed to avoid the issue of valuation prior to investment. Avoidance of valuation before pre-seed investment overcomes the conundrum of requiring a premature valuation in order to invest in pre-seed activities, which of their very nature will better define the value of the investment.

Thus, the fund invests early, when the risk is greatest, increasing investment as information is obtained which reduces risk.

SciVentures Investments

SciVentures invests in a range of technologies including biotechnology. Two examples of our biotechnology investments are Avipep Pty Ltd and 4G Vaccines Pty Ltd.

Avipep Pty Ltd originated from research conducted at CSIRO. The technology is based on the manipulation of antibody formats for more efficient targeting of a "payload" such as an imaging agent, or a toxin to a cancer cell. CSIRO tried for many years to gain interest commercial interest in this technology, but it was only upon SciVentures involvement that the technology has begun to flourish. CSIRO are still part owners of Avipep Pty Ltd.

4G Vaccines Pty Ltd is based on research originally conducted at The Burnet Institute. The technology is based on new vaccines formulations.

For both companies, and others, we continue to fund scientific research in Australia and provide jobs for Australian researchers in the field of biotechnology.

I am excited by the potential companies like Avipep Pty Ltd and 4G Vaccines Pty Ltd have for providing new therapeutics which are derivatives of biological materials.

The Bill will limit Investment in Biotechnology Research

SciVentures' goal is to invest in Australian research resulting in the establishment of viable and self-sustainable companies. I have no doubt that if the Bill is passed this will reduce our investment in companies whose technology is based on biological materials or derivatives thereof.

I appreciate that under the Bill patent claims to new methods of treatments and diagnostics will still be patentable, but it is well known that method claims provide far



less useful protection than product claims. In fact, we have previously made decisions not to invest in a new technology because the only patent protection available was in the form of method claims.

It is a fundamental principle that a company needs laws to reasonably protect its investment into scientific research, even if temporary as in the case of patent protection. If such reasonable protection does not exist, there is no incentive for innovation in the private sector.

The Bill Promotes Secrecy of Biotechnology Advances in the Private Sector

Investing in biotechnology research is particularly difficult because there is a large amount of time and cost between the initial realization that a commercially useful product might have been identified, and actually bringing the product to market. Thus, to gain a competitive advantage it is within a companies interest to keep as many details as possible about the technology secret.

From an investment and company perspective, an unfortunate feature of the patent system is that it forces inventions to be published at an early stage. If the types of subject matter that can be patented is reduced, then logically one way for a company to protect their investment is to keep the scientific advances a secret as long as possible.

I have no doubt that the patent system forces many of the companies within which I invest to publish their science earlier, in many instances much earlier, than they would if patent protection was not available.

Conclusions

In conclusion, I do not support the Bill. I see no positive benefits, and many downsides, for the Bill being passed. In particular, I believe that there is no doubt that the Bill will lead to a reduction in investments into biotechnology research in Australia resulting in less jobs and a slowing of scientific advance. Furthermore, the Bill, if passed, will delay the public disclosure of many advances in biotechnological research.

Yours sincerely

Dr Clement Leong
Director

