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

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

Thank you for the opportunity to make this submission on behalf of our 7,000 constituents.

Gene Ethics fully supports this Bill and its objectives. We concur with and support the submissions made by the Government of South Australia, Professor Anna George, Ms Stephanie Gleeson, Australian Reproductive Health Alliance, Liberty Victoria and other supporters of the Bill.

Origin of Life Patents not legitimate:

We recall that the genesis of life patents in Australia, as reported on P 225 of the House of Representatives Inquiry Report, Genetic Manipulation: The Threat or the Glory 1992 (See: http://www.apf.gov.au/house/committee/reports/1992/1992_PP52report.htm) was a Patent Office practice note, adopted without public notice, discussion or debate. The report says:

7.12 Thus genetically modified organisms are not excluded from patenting in Australia and, indeed, the Australian Patent Office in 1980 stated in a Practice Note: "no distinction is to be made solely on the basis that a claimed product or process is, or contains or uses, a living organism. Higher life forms will not be treated any differently from lower life forms such as micro-organisms".¹¹

When the Patent Act was reviewed in 1990 we opposed life patents on the grounds that they had been used to patent discoveries rather than inventions and to facilitate private enclosure of the biological commons. We advocated for and agreed with the exemption of humans and human material from patenting that the Senate then adopted. We still support this, however, it did not go far enough in preventing discovered biological materials from being patented. As the House of Representatives report observed:

7.11 Nevertheless, the Senate when considering the Patents Bill 1990, introduced an amendment. "Human beings, and the biological processes for their generation, are not patentable inventions."¹⁰

That inquiry report also correctly observed that:

7.9 The reproducibility criterion denies patent rights to organisms produced by traditional breeding techniques because it is not possible to repeat the steps involved to breed an identical organism.⁸

This was influential in the establishment of a parallel Plant Breeders Rights system to reward conventional breeders for innovation.

But the report and the patent law ignored the obvious – that, like conventional breeding, genetic transformations using gene manipulation techniques also fail this reproducibility test and genetically manipulated products should therefore also not be eligible for the grant of patents.

Each individual GM transformation event that is the subject of a patent application is assigned and is known by a unique reference number that distinguishes it from all other transformation events, precisely because these events are not reproducible.

An expert skilled in the art of genetic manipulation cannot reliably or predictably reproduce the so-called GM inventions created by genetic manipulation techniques and processes. This is because, during the transformation process genetic material is randomly inserted into the target cell. No-one can predict where the material will land on the genome nor whether it will function as intended. The results of the GM process are not replicable.

Thus, in our view, non-reproducibility in genetic manipulation processes is compelling reason for no Genetically Manipulated Organisms to qualify as patentable subject matter. Whether they should be accorded a plant breeders right is another question, not addressed here.

The Explanatory Memorandum:

The proposed changes to the Act are summarised in the memo as:

- 1) amend subsection 18(1)(a) and subsection 18(1A)(a) by (i) inserting the word “full” before the word “meaning” and (ii) inserting the words “including the proviso” after the word “meaning”; and
- 2) amend subsection 18(2) by adding, as another category of subject matter to be expressly excluded from patentability, “biological materials including their components and derivatives, whether isolated or purified or not and however made, which are identical or substantially identical to such materials as they exist in nature.”
- 3) insert after section 18(4) the definition of “biological materials” to mean “includes DNA, RNA, proteins, cells and fluids.”

We consider these amendments to the Act are fully justified and we support them. In particular, we support the second amendment in the Bill as it reinstates biological materials in any form to the category of discoveries, not inventions, as they are.

While we reject slavish adherence to overseas precedents, in this case, we support these changes because they are in line with recent changes to patent law policy in the USA. They are also compatible with the policies we have advocated for over 20 years. They will also encourage innovation and investment rather than stifling it as Professor James Evans correctly asserts (see appendices).

The ACIP report:

The Advisory Committee on Intellectual Property (ACIP) report into patentable subject matter attempts to maintain the status quo in Australian Patent law, by supporting the commercial interests opposed to this Bill. See:

<http://www.acip.gov.au/library/ACIP%20PSM%20final%20report%204%20Feb%202011.pdf>

We reject the ACIP report's key recommendation which redefines 'invention' in s.18(1)(a), that would entrench patents over biological materials unless there is an express exclusion along the lines proposed in this Bill, also in their recommendation 4:

"replacing the current words of paragraphs 18(1)(a) and 18(1A)(a) with the words 'an artificially created state of affairs in the field of economic endeavour'"

If ACIP's key recommendation were made law, unless this Bill were passed it would be rendered impossible to oppose the patenting of isolated biological materials, as such. ACIP's recommended change has never been law so it appears to be an attempt to shift Australian patent law to even more grossly favour the corporate interests of big pharmaceutical and GM companies. We absolutely reject such a scheme.

If ACIP's proposal were to become the law here, Australia would be the only country in the world to have such a low threshold for patentable subject matter, so that virtually any living thing and its isolated materials would be patentable.

The United States Department of Justice Amicus Brief in the US Myriad case confirms this it says:

"Genomic DNA itself ... is a product of nature that is ineligible for patent protection, whether or not claimed in "isolated" form. We acknowledge that this conclusion is contrary to the longstanding practice of the Patent and Trademark Office, as well as the practice of the National Institutes of Health and other government agencies that have in the past sought and obtained patents for isolated genomic DNA. The district court's judgement in this case, however, prompted the United States to reevaluate the relationship between such patents and the settled principle under Supreme Court precedent that the patent laws do not extend to products of nature."

This could just as readily have been written about the Australian patent regime. Since 1980, the only distinction between biological material in nature (exempt) and biological material (patentable) was that the patented version was 'isolated'.

This subverted the true intent of patent law and did not satisfy the agreed criteria for patentability. It allowed thousands of materials to be illegitimately patented and it must now be rectified by passage of this Bill.

ACIP is compromised by conflicts of interest and IP Australia should be serving the public interest. Their opposition to this Bill should be discounted.

We also recall that the Senate Community Affairs References Committee inquiry into Gene Patents "strongly rejected" the rationale which IP Australia used to support the granting of patents on genes. This reinforces the United States government's rejection of the same spurious reasoning.

We strongly support the December 2010 White House statement that it is now a "US administration wide position" that isolated biological materials are not patentable subject matter under US patent law.

We urge that the Bill be passed, giving effect to changes similar to those made in the USA.

TRIPS:

The Senate will also consider whether a revised Australian law would still satisfy our legal obligations under the World Trade Organisation's Agreement on Trade-Related Aspects of Intellectual Property Rights System (TRIPS), as amended by the Bill. We are confident that it will conform as TRIPS allows for exclusions under Articles 27.2 and 27.3.

To fall within the TRIPS exclusions, biological material must be exempt for reasons of public order or morality (and here Australian law should align itself with the Europeans), or by convincing courts that isolated genetic materials are discoveries and not inventions. It is much preferable that the law be amended to clarify and cohere the situation without recourse to the courts.

Opposition to the Bill self-serving:

Again we assert that the Bill would prevent the patenting of biological material that exists in nature. Such materials are discovered and not invented so they should not be eligible for patenting. Moreover, the mere isolation of biological material from its natural context does not transform it from a product of nature into a product of human invention.

Rejection and criticism of the Bill's provisions and intent, lodged by Hexima, BIO, AFAA, Croplife, Foursight and others with commercial interests, appear to be self-serving. We consider the Bill will serve the public interest and that's another reason that we fully support it.

BIO's submission bristles at the Bill's use of the term 'substantially identical' but fully accepts and promotes its own terminological invention 'substantially equivalent'. This term and the questionable assumptions that underlie it allow weak and unscientific regulatory assessments of many food and crop seed products of genetic manipulation techniques. The same weak and irrational assumptions of substantial equivalence are also used to justify GM food products entering the marketplace unlabelled.

We reject Agrifood Awareness' claim that the Bill would have negative effects on rural R&D. Indeed, it would level the playing field for all innovations instead of biasing research and development priorities to genetic manipulation as has happened over the past 20 years. The Union of Concerned Scientists USA study 'Failure to yield' found that most yield increases and crop innovations over the past 15 years were due to conventional breeding, not genetic manipulation.

We also disagree with CSIRO's claim that: "The proposed amendment to the *Patents Act 1990* introduces potential ambiguity into the definition of patentable subject matter, which may potentially inhibit future investment in research and development in Australia;" Far from being ambiguous we consider the Bill introduces much needed clarity that does not now exist.

In any case, CSIRO's unsupported claim that the effect "May potentially" be adverse is much too vague a threat to forego the benefits of the proposed Bill. For the past thirty years public institutions have wasted public money on genetic manipulation projects, trying to back commercial winners in the false belief that they could produce patentable products. They have had a notable lack of success yet have starved other projects of the resources they needed to prosper.

Hexima speculates that: The Bill proposes to exclude the patenting of the following under Australian law: 'biological materials including their components and derivatives, whether isolated or purified or not and however made, which are identical or substantially identical to, such materials as they exist in nature.' In our view, the effects of this ban on the patenting of biological materials would be extremely broad, and may have some serious consequences for our company's continued research and development and other operations in, as outlined in more detail below.'

However, we recall that Hexima Principal Professor Adrienne Clarke was reported as saying that foreign seed, chemical and food processing giants already own the patents on most of the genes of interest for crop development. This is why we feel pouring more money into a technology which has primarily corporate goals, rather than into the interests of farmers, is a waste. Billions of dollars have been spent over the last 25 years by Australian governments. An example was Agriculture Minister Warren Truss's estimate that between 2003 and 2005 some \$1.29 billion had been spent on gene-manipulation research and development in that period alone. (Bob Phelps, oral submission to the Productivity Commission's review of Rural R&D, 2010)

Conclusion:

The Patent Amendment (Human Genes and Biological Materials) Bill 2010 is a much needed piece of legislation. It will effectively and with precision amend the patent law to serve the public rather than private interests by excluding discoveries from being patentable subject matter. We fully support the Bill and ask the Senate Legal and Constitutional Affairs Committee to recommend accordingly.

Prepared by Bob Phelps, ED, Gene Ethics 25/2/11

Appendices:

Introduction to Gene Ethics submission 07/10:

Human and microbial genes and non-coding sequences, proteins and their derivatives are discoveries of parts of nature and are therefore not inventions. They should not be patentable subject matter as they fail to satisfy the three criteria for patentability even when isolated from their context. A patent system which allows for claims of invention and monopoly commercialization rights over biological materials abounds with moral, ethical and social problems and inconsistencies.

Patents should not be granted over the *in situ* or isolated form of these materials, as they are parts of nature and are not inventions. A case for patenting might be made for methods of isolation but not for the isolated materials themselves which were never invented. Modified forms of biological materials also fail to satisfy patentable subject matter criteria as these are merely discoveries related to the manipulation of naturally occurring biological materials and processes and elements and cannot be claimed as inventions. Moreover, manipulation and patenting of bio materials is and threatens public order and morality as well as human and animal health and/or may cause serious damage to the environment and therefore should not be patentable.

Patents on bio materials do not promote innovation or provide benefit to society but grant private commercial rights to private entities over materials which constitute the common heritage of all people. It is therefore inappropriate to commercialise or privatize them. Granting patents over these biomaterials leads to restrictions on medical research and mitigates against access to affordable public healthcare as control over these materials is given away to private entities for monopoly commercial exploitation. Such patents may also restrict access to information and knowledge about essential life processes. Granting life patents also distorts social relationships and increases conflicts within society.

Patent monopolies should not be granted over human genes or the other materials mentioned in the terms of reference and such patents should be expressly prohibited by amending the Patents Act 1990. Patents on such materials can be revoked and/or prohibited without violating the provisions of the World Trade Organisation Trade Related Intellectual Property Rights agreement as they pose a threat to public order and morality, plant, animal and human health and/or seriously prejudice the environment.

Moreover, Australia currently lacks and needs to develop specific legal protections against unethical commercial exploitation and experimentation on human tissue and genetic information and samples held in biobanks and genetic registers. A United Nations University publication has identified the Pacific Region, including Australia, as a global 'hot spot' for human rights abuses involving the patent system and human genes.

Restricting Gene Patents: A Pro-Market Agenda
Posted by Guest Contributor on November 30, 2010

This commentary is contributed by James P. Evans, clinical professor genetics and medicine at the University of North Carolina and Editor-in-Chief of Genetics in Medicine.

<http://www.genomicslawreport.com/index.php/2010/11/30/restricting-gene-patents-a-pro-market-agenda/#more-4872>

Gene patents have been controversial since they were first granted in the US over two decades ago. The controversy is now reaching a fevered pitch after a surprising US District Court decision which held that human genes are not legitimately patentable and an amicus brief by the Department of Justice largely in support of this contention. How this case will be decided by the Court of Appeals for the Federal Circuit and the Supreme Court (should it accept the inevitable appeal) is anyone's guess.

But in spite of what might be suggested by the rhetoric often accompanying this debate, the questions at hand are amenable to logical analysis and the application of evidence. Such an analysis argues strongly that if patents on naturally occurring genes are ultimately ruled out of bounds, the net effect on commerce would be positive.

The recent brief filed by the Department of Justice draws a logical bright line between what kind of gene should be eligible for patent protection and what kind is not. Namely, it maintains that a naturally occurring human gene – one that evolved over millions of years and existed long before we humans began dissecting our own genomes – is not legitimately patentable. This seems very hard to debate on logical grounds. If, as is the case under long-settled law, we cannot patent gold, sunshine or an unmodified field mouse, then it is difficult to envision just how we could sanction the patenting of naturally occurring genes. One is perfectly free to patent a novel and inventive method for purifying gold, a new way of capturing sunshine to accomplish some purpose (like powering electrical grids) or a new kind of mouse that has never before existed. Likewise, if one modifies a gene (in such a way that is novel, non-obvious and useful), it is reasonable to expect patent protection on such an invention. But merely isolating a naturally occurring gene or distilling its naturally occurring information – no matter how difficult, ingenious or useful – renders the gene no more patentable than would be gold should I invent a new method for its purification.

But what about the issue of cDNAs and their patentability? While the DOJ brief was indeed largely supportive of Judge Sweet's decision, it fails to grasp an implication of his perceptive appreciation of the gene as an embodiment of information. An understanding of this basic genetic principle suggests that Judge Sweet got it right. A cDNA is simply genomic information re-written in another form, and patenting it smacks more of a "lawyer's trick" (in his phrasing) rather than a legitimate endeavor. The essence of a cDNA, the information that it embodies, is no more novel or inventive than the native gene from which it is derived and which has existed for millennia. Thus it is still not logically eligible for patent protection. If I publish a work of literature that resides in the public domain I don't deserve intellectual property protection simply because I have issued a one volume version of the same work rather than issued it in its original 3 volume form. If, however, I write a new work of literature I can legitimately ask for protection. Likewise, only if I invent a nucleotide sequence that embodies new information should I expect patent protection.

So what will happen if it is ultimately decided that naturally occurring human genes are non-patentable in the case now winding its way through the court system (Association for Molecular Pathology, et al. v. U.S. Patent and Trademark Office, et al.)? The evidence suggests that, far from realizing the end of Western Civilization as some claim, we would see a boon to commercial activity. Indeed, we already have evidence that exclusivity at the level of the gene is detrimental to commercial activity and innovation. In a report to the Secretary of Health and Human Services last year by a Federal committee (pdf) , the current landscape of gene patents, especially as it relates to the availability of genetic testing, was extensively evaluated. About 20% of the human genome is under patent. This means that some disease-relevant genes are patented, some are exclusively licensed and others happen to be unconstrained by exclusivity. Comparing the markets among these categories is highly instructive – and reassuring for those who believe in the power of markets to foster innovation. For genes such as those related to cystic fibrosis and Huntington’s disease, which happen not to be under exclusive constraint, a thriving marketplace exists where dozens of laboratories – both private and public – vie to out-compete one another on the basis of innovation, quality and service. However, for those genes controlled by patent-enabled exclusivity, including the breast cancer genes that are at the center of the Myriad litigation, only a single laboratory exists which is permitted to analyze them. As one would expect, in a setting lacking any meaningful competition, quality, innovation and service are undermined.

As we contemplate a future in which whole genome sequencing is about to be a practical reality, the potential for patent thickets and royalty stacking is real and could dramatically dampen our ability to harness this emerging technology to “promote the progress of science and useful arts.” While some argue that the elimination of gene patents will squelch the development of therapeutics, there is little in the way of factual evidence (or logical argument) to support such a contention. As the DOJ brief points out, “nearly every biotechnological or pharmaceutical application of genomic DNA will involve a welter of potentially patentable products and methods.”

The fundamental intent of the patent system often seems to get lost in the passionate arguments that swirl around this controversy. But patents were enshrined in the US Constitution for an explicit purpose: “to promote the progress of science and useful arts,” presumably by harnessing the “fuel of interest” in Lincoln’s memorable aphorism. The primary intent of the patent system is a broad social goal, not merely the stimulation of commerce. Otherwise, as the DOJ brief points out, we would allow the patenting of far more things than we do.

Of course there will be a few losers should human genes be judged non-patentable. The small handful of companies that have staked their business model solely on the hope of eliminating competition through the purchase of patents and exclusive licenses will not thrive. But those myriad (pun intended) companies that compete on the basis of innovation and added value will. Which type of market was the patent system designed to encourage? Which type will benefit us all?

Inappropriately granted patents can suffocate innovation just as surely as thoughtfully granted patents can stimulate it. The elimination of patents on naturally occurring genes is not only logical but is at the heart of a profoundly pro-market agenda. By eliminating toll booths at the extreme upstream position of naturally occurring genes we unleash human ingenuity and self-interest to the benefit of all.

**PATENTING THE SUBSTANCE OF LIFE?
MANY GOOD REASONS WHY NOT**

Patents not only offer a return for innovation but also confer exclusive monopoly control and access rights for 16 years. It takes large resources to gain and hold patents and most are owned by transnational conglomerates. The question is, "Would it be in the long term interests of all Australians for the patenting of plants, animals and micro-organisms to be permitted?" We offer the following arguments in support of our view that biological patents should be prohibited.

Breeders will be disadvantaged and the food supply at risk. If a genetic engineer could get a patent by adding or removing only one gene from the millions in a plant or animal, a grave injustice would be done. The work of traditional breeders could be appropriated and further monopolised. Selective breeding has been successful for centuries in agriculture, food processing, and kindred industries, without patent ownership and will continue to be the main source of biological productivity gains for the foreseeable future. The patenting of genetically engineered stock will give an inequitable advantage to the new technology, which it does not deserve.

Transnational agribusiness will gain unacceptable control over breeding. Like the Green Revolution, foreign monopoly ownership of stock would increase farmer dependence on corporate inputs and reduce agricultural sustainability. Offspring would also be patented, so royalties would be due on seeds saved for next year's planting or animals bred from patented stock. Multiple patents on different characteristics of the same animal would further complicate and increase the cost of access to breeding stock. Patents over the broadly defined characteristics of living things could further restrict breeders' access. For example, a US patent already protects all sunflowers with a "higher oil content" and if, for example, "disease resistance" or "higher yield" were patented, new avenues for research could also be reduced. Patents would increase the costs of farming, further reducing the number of people in rural communities. The increased cost of food that would result is an important question for policy makers and the public.

Patents threaten biodiversity. The natural and agricultural biological resources of the world should not come under private patent control. The United Nations Food and Agricultural Organisation sees genetic resources as the heritage of humanity, to be freely exchanged and in need of proper conservation. They must remain under public scrutiny and control, to serve everyone's needs, including all future generations. Australia should support the views of those Less Developed Countries with great biological riches, that this valuable asset should not be monopolised or used without fair compensation.

Patents would grant more private control over public assets. The interests of patent owners and society would often conflict. For example, the deliberate culling of unpatented stock, in favour of those subject to patents, would further commercial objectives but put biodiversity at risk.

Misdirected research. Priorities in research are being set in the interests of short term economic gains for the corporations marketing new innovations. Patenting would exacerbate this trend and create pressure for rapid release of ever more engineered organisms. These jeopardise rather than enhancing biodiversity and ecological sustainability and will prove an ecological and social disaster in the long run. Other more appropriate and cost effective measures should be adopted. For example, farmers should be encouraged to maintain and expand the genetic diversity of their own stock. If such measures are not adopted, both the economic and biological life support systems on which our survival depends may collapse through the loss of biodiversity.

Living things are reduced to their chemistry by patenting. The US Patent and Trademark Office now views all genetically engineered animals as "non-naturally occurring manufactures" and defines them as "a manufacture or composition of matter." If this Bill is passed in its present form, the Australian Patents Office will take the same materialist view based on commercial and legal precedent. Organisms with a gene added or removed will be regarded as the equivalent of a pop up toaster or ball point pen, removing the distinctions between living and non-living things. Clearly an ethical and moral threshold would be crossed and the Patents Office's claim that they do not make ethical decisions is plainly wrong. They would play that role without reference to the public, parliament or the courts. The role of the Patents Office should be clearly defined so that it is the servant of overall community interests and not just those of the corporations wealthy enough to hold and capitalise on patents. There must be a public debate before the Patents Bill is passed to canvass these questions.

Living things are distinctly different from machines. Viewing them as automatons is a misleading basis for granting patents. Animals and plants are not like machines or computers in which a program or part can be changed or substituted, with a known outcome. They differ greatly from mechanical objects because:

- a group of engineered plants or animals, with an altered gene among the millions in their genome, are not identical;
- they are not predictably different from unmodified organisms of the same strain;
- their biological properties are not always stable and ecological impacts are often unpredictable. These uncertainties and our lack of scientific knowledge make organisms unacceptable candidates for patenting.

Organisms are more than the sum of their genetic and chemical parts and cannot be reduced to that. The genes of an organism play an important but not a definitive role in defining its character. Environment, learning, stress and a range of other influences are also important. Singling out gene changes, and the organisms that contain them, for patent ownership is irrational, inequitable and not in the public interest. Patenting is no more justified in this case than it would be for organisms that express new traits by being irradiated or bred in a different environment, yet there is no proposal to patent those.

Where would we draw the line on patenting humans? The new patent law should explicitly take a stand on patenting the genetic material of humans and near-humans, such as other primates carrying human genes. Failing to do so will leave a moral and ethical vacuum which the Patents Office may be free to fill in any way it chooses. The US Patents and Trademarks Office has already taken the view that human traits are patentable. It is impossible to draw a line around what is acceptable and what is not, in this area, and the only rational course is to ban all patents on living things.

The secret international dimension to the patents debate. Intense pressure is reportedly being placed on all national governments through the General Agreement on Tariffs and Trade, to allow biological patenting, often against their national interests. The US is arguing that failure to permit biological patents to its corporations will represent a non-tariff barrier to free trade, and have threatened that trade reprisals may result. If the Minister's determination to push on with patents in the face of public concern is the result of international pressure, he should submit this secret agenda to public scrutiny. Australia should take the view that

The case that ACF and many other organisations and individuals have made warrants serious consideration. We call on you to adopt the amendments to the Patents Bill 1990, proposed by Senator Coulter, and outlaw biological patents.

Bob Phelps. ACF Genetic Engineering Campaign Officer 19/9/90

Patent Letter 09/90

Australian Conservation Foundation
Glenferrie Rd
Hawthorn 3122

10/9/90

Mr Rob Diamond
The Secretary
Senate Standing Committee on Industry, Science and Technology
Parliament House,
CANBERRA. ACT. 2600.

Dear Mr Diamond,

I am writing to the committee seeking amendments to the Patents Bill 1990 and fully support the changes proposed by Senator John Coulter. In the Foundation's view, the Bill should explicitly prohibit the patenting of living animals, plants and micro-organisms, and their genes.

As now framed the Bill would allow the Patents Office to grant patents over genetically engineered organisms and their offspring. This would include those containing human genes and nothing in the Bill would prevent the patenting of humans, as the Minister confirmed in the Senate on September 5, 1989. These steps would be taken without reference to Parliament, the public or the courts.

The informed public is concerned. The ACF and the Australian and New Zealand Federation of Animal Societies (ANZFAS) have to date submitted around 10,000 petition signatures to the Senate, seeking the proposed amendments. The general public should also be fully consulted prior to the passage of this Bill.

If the committee cannot agree to the changes, I strongly urge you to delay a final decision until your Committee completes a public inquiry. Or preferably you could await the findings of the inquiry into genetic engineering being made by a House of Representatives Standing Committee. It is addressing these issues and should not have its findings pre-empted.

Yours sincerely,

Bob Phelps
ACF Genetic Engineering Campaign Officer

Letter of support for patent amendments 09/90:

18/9/90

Senator Bob Collins
The Senate
Parliament House,
CANBERRA. ACT. 2600.

Dear Senator Collins,

We understand that you will be leading the resumed debate in the Senate on the Patents Bill 1990. We seek amendments, so that the patenting of all living organisms is explicitly prohibited. Few people there seem to recognize the enormity of allowing such patents and we hope you will fully consider the attached summary of our arguments before the debate.

The Foundation fully supports the changes proposed by Senator John Coulter. Among others supporting the amendments are:

Phillip Toyne - Executive Director, Australian Conservation Foundation;
Barbara Dover - Animal Liberation (Vic);
Archbishop, The Most Rev. Leonard Faulkner - Archbishop of Adelaide;
Carole de Fraga - Australian & NZ Federation of Animal Societies;
Rev. Gregor Henderson - General Secretary, Uniting Church in Australia;
Sue Jackson - Director, Environment Centre of the Northern Territory;
Dr Judy Messer - Chair, Nature Conservation Council of NSW;
Archdeacon Alan Nichols - Anglican Archdeacon of Melbourne;
Prof. Peter Singer - Director, Centre for Human Bioethics, Monash Uni;
Rev. Dr. Hans C. Spykeboer - Qld Synod, Uniting Church in Australia;
Fay Sutton - Chair, Australian Conservation Foundation, Sydney Branch;
Louise Sylvan - Mgr, Policy & Public Affairs, Australian Consumers Ass.

The informed public is also concerned. The ACF and ANZFAS have submitted around 10,000 petition signatures to the Senate and over 500 to the House of Representatives, seeking the proposed amendments. The general public should also be fully informed and consulted prior to the passage of this Bill.

If your party remains unprepared to accept the proposed changes, I strongly urge you to sponsor a delay on passage of the Bill until the House of Representatives Standing Committee on Industry, Science and Technology issues its report on genetic engineering. Its findings should not be pre-empted.

Yours sincerely,

Bob Phelps
ACF Genetic Engineering Campaign Officer