

SUBMISSION TO COMMISSION OF INQUIRY INTO GENE PATENTS

The Australian Law Reform Commission Report of June 2004 made 50 recommendations, but the outcome of those recommendations has not been made clear to the interested public. That Report suggested there was no need for an overhaul of the patent system. However recent media reports suggest we have not achieved a proper outcome in matching genetic patent approvals with adequate community outcomes. This submission aims to plead for a better focus on improving patient care.

Any proper patenting system must be based on ethical issues. It must also encourage creativity in further development and research, primarily driven by intellectual curiosity, which will promote knowledge and innovation. Therapeutic inventions should have socially desirable outcomes. Instead, our patenting approval process seems to reward restriction and exclusivity at the expense of community welfare.

Claims for genetic patents that are too broad seem to be leading to patent licensing that results in outcomes which are ungenerous to the interests of clinical patients. It must surely be assumed that this latter group be the ultimate beneficiaries.

The major problem in assessing genetic patents encompass the breadth of patents and the criteria for patentability. Licenses that are too exclusive create application barriers, and become problematic where there are no effective guidelines.

This Inquiry is urged to have as its primary aims a legislative framework that protects patients' rights to access affordable health care, and which permits and encourages the translation of inventions into good clinical practice.

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