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Senator Rachel Siewert  
Chair  
Senate Standing Committee on Community Affairs  
Parliament House  
Canberra ACT 2600

**Re: Gene Patents Inquiry – Clarification of evidence provided on the  
20 August 2009**

Dear Senator Siewert

I am writing to correct evidence I gave at the hearing in relation to the above inquiry on 20 August 2009.

In responding to a question from Senator Humphries regarding the 202 Australian patents in force, I had suggested at CA34 and 35 that:

“Most of those were granted before the publication of the human genome in 2003...So the majority of those had been granted before 2003.”

I have had a closer look at the 202 patents and noticed most were in fact not granted before 2003 but had a ‘priority date’ before 2003. This is significant because novelty and inventive step are assessed based on what is known at the priority date.

For applications with a priority date before publication of the human genome, the examiner would not have taken into consideration information about the human genome in deciding whether an invention is novel or involves an inventive step. This is because that information was not publicly available at the priority date of the application.

Should you need further information or clarification, please do not hesitate to contact me.

Yours sincerely

Lexie Press  
Senior Patent Examiner (Biotechnology)  
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