



Australian Government
IP Australia

Discovery House, Phillip ACT 2606
PO Box 200, Woden ACT 2606
Australia
Phone: 1300 651 010
International Callers: +61-2 6283 2999
Facsimile: +61-2 6283 7999
Email: assist@ipaaustralia.gov.au
Website: www.ipaustralia.gov.au

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

Dear Senator Siewert

Re: Gene Patents Inquiry – Clarification of evidence provided at the 18 May 2010 hearing

I am writing to clarify evidence I gave at the hearing on 18 May 2010 in relation to the subject inquiry.

In responding to a question regarding Australian court action in relation to the ‘dye stuff’ patent (number 11047/19), I stated at CA12 (of the Hansard) that “*No, the court did not review this patent, but this patent was also patented in other jurisdictions internationally.*” I would like to qualify that statement by “*To the best of my knowledge no Australian court has reviewed the validity of this patent, but this patent was also patented in other jurisdictions internationally*” which more accurately reflects the situation. Up until establishment of the Federal Court, decisions of the Commissioner of Patents were appealed to the High Court, while infringement actions could be initiated in the State Court system. A search of the reported High Court cases has found no reference to the patent in question. Searching of the State Courts is not as easy and straightforward and so has not been attempted. Therefore I am unable to advise with certainty that no court action has been undertaken in relation to the subject patent.

Another matter which I wish to clarify relates to a question about a comparison of Australian and US patents for BRCA 1 and 2 (at CA 22 of Hansard). My response while correct suggests that no comparison had been undertaken by the office, whereas a limited comparative exercise had been undertaken.

I hope this clarifies these matters. Should you need further information or clarification, please do not hesitate to contact me.

Yours sincerely

Fatima Beattie
Deputy Director General
IP Australia

7 June, 2010

