



# HUMANIST SOCIETY OF VICTORIA INC.

GPO Box 1555P Melbourne VIC 3001

Affiliated with Council of Australian Humanist Societies (CAHS) and  
International Humanist and Ethical Union (IHEU) London UK

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*With compliments*

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Re: WHAT SUBJECT MATTER SHOULD BE PATENTABLE ?

### SUBMISSION FROM THE HUMANIST SOCIETY OF VICTORIA INC. (HSV)

The HSV is a secular organisation whose members foster an ethical, reasoned and responsible approach to life. It supports human rights, democratic processes, and a just and inclusive governance.

It seeks to alleviate suffering, to promote well-being and the circumstances where all individuals can attain their full potential. It engages in educational, counselling and charitable activities.

The views that follow have been formulated at specially convened group discussions to which all HSV members are invited. Further supportive information is obtained from print publications, the Internet, public lectures and from individuals with relevant expertise.

The Convenor of the HSV Submissions Committee is authorised to present these views.

GENERAL REMARKS

1. Humanists regard the ethical aspects of intellectual property patenting as paramount in establishing exclusions.
2. The Australian Law Reform Commission in its 2004 paper on " Gene Patenting and Human Health" discussed the impact of genetic patents on human health and called on governments to appoint health departments specialists to monitor and manage the intellectual property issues. There was concern that patented genetic tests could add costs to the health-care system. We do not believe that this recommendation was implemented.
3. At present 20% of human genes are patented intellectual property. Neither invented, nor a product of innovation, they are essentially discoveries and thus should not qualify for patenting.
4. The present arrangements leave us too often at the mercy of monopolies which make ~~life-saving drugs and genetic tests more expensive, inhibit biomedical research and~~ impose restrictions on trading. There is an urgent need to:
  - a) revise the patenting criteria used at present,
  - b) reward inventors of new techniques adequately without giving them ownership and monopoly of entities of nature such as genes,
  - c) have government involvement and funding of health related research.
5. We strongly support Richard Jefferson, head of the Center for the Application of Molecular Biology to International Agriculture (CAMBIA) who calls for "open access genetics" to free the tools of modern genetics and biology from the "shackles of excessive patenting" Jefferson says that "biotechnology is being stifled by the complexity, expense and misuse of patenting " His team produces toolkits of molecular biology available for all to use, especially for developing countries.

'Freeing biotechnology' p31, "New Scientist" 6.12.2003.

SPECIFIC POINTS

6. Humanists believe that science directed towards improving the public/human wellbeing should be funded by governments. The following is a case in point;  
A report in the "New Scientist" (20.1.07, p3, "No patent? No thanks') describes a previously used, and therefore not patentable drug, now showing a huge potential as an anti-cancer agent but is left on the shelf like many other drugs where companies cannot draw large profits from its use.  
This surely is a case for government funding of its clinical trials and production.
7. We quote as follows in support of our views:  
"...drug companies tend to oppose any move that undercuts patent protection..."  
"Drugs withheld", "New Scientist" p7, 24.3.07.

"Drug company contracts and intellectual property rights are impeding efforts to ensure that an outbreak of bird flu in Vietnam does not result in a deadly human pandemic." New Scientist p8, 24.1.2004. "Vietnam last on vaccine list"

From "How many lawyers does it take..." New Scientist p3, 18.5.2002 :

"...the present system rewards luck and greed as much as enterprise and ingenuity. It urgently needs reforming."

" The sheer abundance of biotech patents means biometrical researchers are already overburdened with red tape."

" Patents are supposed to be for novel inventions of clear utility. Many applications simply report a gene, a scrap of DNA or protein and then list every imaginable way it may be used."

"The consequences are not pretty. Already patents are making it harder and more expensive for patients to get genetic tests as patent holders demand hefty licence fees and royalties from clinics."

8. We find it regrettable that our obligations under AUSFTA compromise Australia's aim to benefit society as a whole in matters of patentable material.
9. We strongly believe that any ethical aspects of limiting patentable material should be determined, case by case, by the courts of law, free from the pressures of political or vested interests.

It appears to us that AUSFTA Article 17.9 precludes any ethical considerations being determined either by the legislation or the courts. ( Question 3)

We hope that this review of patentable subject matter will bring changes in the system where matters of ethics and human wellbeing take precedence of commercial considerations.

Yours sincerely,



Halina Strnad,  
convenor, submissions committee.

2.9.2008.