

Successful opposition to a patent on genetically engineered 'Parkinson-apes'

Max Planck Society withdraws all claims covering vertebrates

19 February 2021 / Testbiotech has won an important opposition filed at the European Patent Office (EPO). A patent held by the Max Planck Society will now be changed to delete all claims covering genetically engineered vertebrates. In its original form the patent covered many different species from mice to great apes. The animals were to be genetically engineered to develop symptoms of Parkinson disease and for use in experiments. The new EPO decision was based on ethical considerations; the expected suffering of the animals would have been disproportionate to any substantial medical benefit as requested in European law.

In 2016, Testbiotech filed an opposition to Patent EP2328918 held by the Max Planck Society. In 2017, the opposition was rejected by the EPO. Testbiotech appealed the decision and has now won the case (T0186/18). The EPO previously revoked two patents for ethical reasons in 2020; these were held by US company, Intrexon, and covered genetically engineered chimpanzees. Testbiotech considers these decisions are important milestones in strengthening ethical hurdles to prevent patents on genetically engineered animals that would cause unnecessary suffering.

Patents are an incentive to develop, apply and market protected inventions. Therefore, according to Testbiotech, patents on animals are in conflict to the goals of European animal welfare laws. These laws allow animal experiments only for medical reasons but not to make a profit. The European patent laws do in fact attempt to restrict these patents by requesting evidence of substantial medical benefit. However, in recent decades, hardly any patents were rejected or revoked due to this regulation. This legal practice now has been changed.

"Some companies have turned the suffering of laboratory animals into a profitable business," says Christoph Then for Testbiotech. "This latest decision sends an important message that the EPO no longer supports profits from this kind of business. We demand a complete prohibition of animal patents. These patents entirely contradict goals of protection and respect owed to animals by our civilisation."

This recent decision may now turn out to be a real turning point. Patents on animals have been a matter of ongoing controversy and protests since 1992 when the first European patent was granted on genetically engineered mammals, the so-called 'oncomouse'. Since then the EPO has granted thousands of similar patents, most of them on genetically engineered laboratory animals but also on animals used in agriculture, such as cattle and pigs. Patents on laboratory animals are still not prohibited, but may shrink to just a few cases.

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Further information: [Documents regarding the Max Planck Society patent](#) [2]
[Information on the Intrexon patents](#) [3]

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