

Success for Testbiotech: Patent on human sperm cells revoked

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Munich

Today the European Patent Office (EPO) in Munich decided upon a patent held by Ovasort (UK) covering human sperm cells and the gender selection of offspring (EP1263521). Testbiotech filed an opposition because the patent violated the ethical boundaries of patent law. The opposition was successful and the patent has now been completely revoked.

“Humans are not and should never be seen as products, but there have been repeated attempts using patents to subject the human body to commercial exploitation. Because the EPO is earning money by granting such patents, the incentives to establish clear ethical boundaries are low“, says Christoph Then for Testbiotech. “And patent laws leave too much room for interpretation which is often jointly exploited by companies, patent lawyers and the EPO to escape the existing legal prohibitions. That is why we are calling on politicians to set out clear boundaries in patent law.”

The animal breeding claims in the Ovasort patent were also revoked. However, this is just a single decision and does not have much bearing on other cases. It will still be possible to grant similar patents in future, even though European patent laws exclude patents on the breeding of plants and animals (“essentially biological processes for the production of plants and animals”). These kind of patents can lead to wide-ranging dependencies for farmers and breeders.

The patent holder can still appeal against today’s decision.

Testbiotech is also active in several other patent oppositions. In 2010, the organisation filed an opposition against a patent held by Merck-Serono, which claims commercial usage of human oocytes (EP 1794287). In 2012, 2013 and 2014 oppositions were filed against patents on genetically engineered chimpanzees and human DNA. As yet, no decisions on these oppositions have been made.

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