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Media Release

No patents on genetically engineered chimpanzees!

Huge success for animal welfare coalition and environmental organisations

2 July 2020 / The European Patent Office (EPO) has for ethical reasons now declared two patents on genetically engineered chimpanzees to be no longer valid. All claims on genetically engineered animals have to be removed from the patents concerned. The Technical Board of Appeal at the EPO decided in favour of oppositions and appeals filed by a broad coalition of animal welfare and environmental organisations. European patent law prohibits patents on the genetic engineering of animals if it is likely to cause animal suffering. Exceptions are only made if there is real evidence of substantial medical benefit. According to the EPO, no such benefit was shown. It is the first time that the EPO has interpreted this rule so strictly. The decision is also binding for other cases.

Oppositions were filed in 2012 and 2013 against patents held by the US company, Intrexon, (EP1456346 und EP1572862) now named Precigen. The patents claim genetically engineered chimpanzees and other animal species as 'inventions' for use in animal experiments. A gene originating from insects was inserted into the genome of these animals. Additional application chemicals can also be used to influence gene activity. The company talks about a 'gene switch'.

Oppositions were filed by the Albert Schweitzer Stiftung für unsere Mitwelt, Cruelty Free International, Deutscher Tierschutzbund, Gen-ethisches Netzwerk (GeN), Gesellschaft für ökologische Forschung, Jane Goodall Institute (Germany), No Patents on Life!, Bundesverband Menschen für Tierrechte, Pro Wildlife, SAG Schweizer Allianz Gentechfrei, Schweizer Tierschutz (STS), TASSO, and Wild Chimpanzee Foundation Deutschland (WCF). The oppositions were supported by 14.000 individuals.

“I welcome the decision of the EPO to declare two patents on genetically modified chimpanzees to be invalid on ethical grounds. Chimpanzees are our closest relatives with whom we share 98.6% of the composition of our DNA, and this ruling will be appreciated by all who understand that modifying the genes of these apes and other sentient animals is unacceptable”, Dr. Jane Goodall, DBE Founder of the Jane Goodall Institute & UN Messenger of Peace, says “The EPO has made a wise and responsible decision which sends a clear message to scientists who regard sentient beings as mere research tools.”

The oppositions were rejected in 2015, but appeals were filed in 2016. At the end of 2019, the Technical Board of Appeal announced it intended to uphold the complaint. In response, the patent holder agreed to the removal from the patents of all claims pertaining to genetically engineered animals. The Technical Board of Appeal has now published its final decision and requested the opposition division to change the patents accordingly (Decision T0682/16 and T0789/16).

Ruth Tippe from the initiative *No Patents on Life!*, who has for many years fought against such patents, welcomes the decision: “It has taken nearly 30 years for the EPO to arrive at this point and show its intention to substantially and generally curtail patents on animals. However, for ethical reasons, we are still demanding that patents on animals are completely banned.”

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. This was the year in which 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 still are not prohibited, but may shrink to just a few cases.

“This decision means that at least patents on cattle and pigs may become mostly a thing of the past. There is no medical benefit that can be expected in these cases,” says Gudula Madsen from Gen-ethical Network.

“Experiments on primates or patents covering them are an absolute ‘no go’,” says Dr Sandra Altherr from Pro Wildlife. “This decision by the European Patent Office is particularly satisfying and sets a clear precedent.”

“We are demanding a complete ban on patents on animals. Degrading sentient animals to ‘inventions’ or objects so that they can be used instead of humans in experiments which cause appalling suffering is ethically unacceptable,” says Dr Stephanie Link, from the animal welfare organisation, Deutscher Tierschutzbund.

“Some companies turned animal suffering into a profitable business with the help of the EPO. Currently, the sale of genetically engineered animals for experimental uses is promoted through special bargain prices and free gifts,” says Christoph Then for Testbiotech. “Now, the EPO has hopefully understood that making profit out of animal suffering is unacceptable. We will continue to actively follow future developments at the EPO.”

The patent has now been sent back to the patent examiners and may only be maintained in changed form. All claims on genetically engineered animals must be deleted.

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- Wild Chimpanzee Foundation, c/o Max Planck Institut für evolutionäre Anthropologie, www.wildchimps.org

Further information see: www.testbiotech.org/node/2551

- Patents of Intrexon
- The oppositions
- The appeals against the decision of the opposition division
- The decisions of the Board of Appeal
- The detailed reasons for the decisions
- The changed wording of the claims