

Biotechnology needs 21st century patent system: Expert

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Biotechnology discoveries – like the method for creating synthetic life forms – are at risk of being unduly hindered or taken hostage by private corporations unless patent systems are brought into the 21st century, an expert from The Australian National University argues.

Dr Matthew Rimmer from the ANU College of Law takes a broad look at the current state of international regulation around intellectual property rights and biological inventions in his new book – and the prognosis is far from healthy.

“Most patent systems around the world were developed during the industrial revolution, which means they’re ill equipped to deal with more complex range of inventions arising out of life sciences – things like man-made micro-organisms, GM plants, the human genome and stem cells,” Dr Rimmer says.

Dr Rimmer says that patent systems provide protections around inventions provided they satisfy criteria to do with novelty, an inventive step and utility. But he argues that such legal tools are not nuanced enough for biotechnical innovation, where inventions can be at once more intellectually subtle and morally ambiguous.

“When it comes to biotechnology, our antiquated patent systems can have detrimental consequences – either hampering the freedom of researchers to take full advantage of experimental use and the possibilities for innovation, or giving a lot of control over living things to

a very small group of people.”

Dr Rimmer laments the rise of ‘patent trolls’ – companies that take out patents on very slight biotechnical innovations, and then hold other researchers to ransom if they attempt to make any progress in that particular area.

On the other hand, he acknowledges the legal and ethical complexities surrounding the actions of scientists like those at the J. Craig Venter Institute in the US, who are trying to patent the method for creating a synthetic life-form. While the organism involved is incredibly simple, Dr Rimmer says such moves could lead to patents being taken out on much more complex living things.

Dr Rimmer argues that in order to provide more incentives and protections for scientific innovation, there needs to be greater scope in Australia and elsewhere for challenges to patent applications. He also says there is a need for a broader legal defence of experimentation. Finally, Dr Rimmer argues that thresholds need to be raised to make it harder to get a patent, which would be a blow to ‘patent trolls’.

Source: Research Australia

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