

EU court: No patents for some stem cell techniques (Update 2)

October 18 2011, By MARIA CHENG , AP Medical Writer

The European Union's top court ruled Tuesday that scientists cannot patent stem cell techniques that use human embryos for research, a decision some scientists said could threaten major medical advances if it prevents biotech companies from turning a profit.

The ruling sets Europe apart from much of the rest of the world, where there are no such restrictions, and it arose from a lawsuit filed not by a religious group but by the environmental group Greenpeace.

The decision from the European Court of Justice in Luxembourg centered on the case of a University of Bonn researcher who in 1997 filed a patent on a technique to turn embryonic stem cells into nerve cells. Greenpeace challenged Oliver Bruestle's patent, arguing that it allowed human embryos to be exploited.

The court said patents would be allowed if they involved therapeutic or diagnostic techniques that are useful to the embryo itself, like correcting defects.

But the justices concluded that the law protects human embryos from any use that could undermine their dignity. The court also objected to any stem cell techniques used exclusively for research, saying such use of embryos "is not patentable."

Embryonic stem cells can develop into any type of cell in the body. The hope is that one day they might be used to replace or repair damaged

tissue from ailments such as heart disease, Parkinson's and stroke.

But using stem cells from embryos has always been controversial - opposed by some groups for religious and moral reasons.

Greenpeace spokesman Christoph Then explained that the lawsuit was an effort to get a clear, legal definition of what constitutes a living embryo. The group is concerned that patents on plants and animals could lead to monopolies in food production.

Greenpeace approaches the issue from "a completely different angle" than anti-abortion activists, specifically a fear that living creatures will be abused for the sake of profits, Then said.

"We took an ethical approach," he said, noting that European patent law had failed to define what constitutes a human embryo. "We are mostly concerned about commercialization of the human body."

Scientists worried that the decision could further restrict stem cell research. Many feared that companies would be less interested in pursuing costly research projects because they would be unable to protect their inventions.

"This casts real doubt on the possibility of new medicines from stem cell research," said Pete Coffey, a researcher at University College London running several projects on eye disease and stem cells.

"Getting a stem cell technique to cure blindness is fantastic, but it may never get out as a medicine because no manufacturer will get any financial reward from it," he said.

Robert Lanza, chief scientific officer at Massachusetts-based Advanced Cell Technology, called the ruling "a devastating decision for the field."

Lanza, whose company has several stem cell projects, described the European court's decision as "the kiss of death" for research that requires the destruction of embryos. But, he said, other techniques, such as those used by his company, would not be banned.

Some European religious groups welcomed the ruling.

"We are in favor of research and development in biotechnology, but human beings must not be destroyed, not even in the early stages of their development," said Peter Liese of the EPP Christian Democrat group at the European Parliament.

The German Bishops' Conference, part of the Catholic Church, called the decision a "victory for human dignity" and said it strengthened the view that life begins at conception.

Alexander Denoon, a lawyer at a U.K. law firm specializing in life sciences, said attorneys would probably find ways around the European ban, perhaps by seeking patents on discoveries that result from the stem cell techniques rather than the techniques themselves.

Hank Greely, a law professor at Stanford University who directs the school's Center for Law and the Biosciences, said the decision seems like a reasonable interpretation of a 1998 directive by the European Union that forbids patenting the use of human embryos for industrial or commercial purposes.

In its latest move, the court extended that ban to products whose creation requires the destruction of embryos.

The ruling will not have any direct legal impact in the United States, which has no such restrictions on obtaining patents on stem cell techniques.

In Europe, it might provide incentive for using so-called iPS cells, which are stem cells created without destruction of an embryo, he said.

Those types of stem cells have eclipsed embryonic stem cells in recent years. Using a technique announced in 2007, researchers reprogram adult cells to turn into stem cells. Many scientists are now working to fine-tune that method.

But embryonic stem cell research is still considered crucial in leading scientific circles.

Douglas Melton, a stem cell expert at Harvard University, said he knows of few researchers who use cell reprogramming who do not also conduct research on human embryonic stem cells.

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Citation: EU court: No patents for some stem cell techniques (Update 2) (2011, October 18) retrieved 24 April 2024 from <https://phys.org/news/2011-10-eu-court-patents-stem-cells.html>

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