

**Company:** AusBiotech  
**Date:** 17 November 2010  
**Publication:** Biotechnology News  
**Page:** Online

### Gene patent debate heats up

Amanda Ellis

Wednesday, 17 November 2010

**AS National Breast Cancer Foundation patron Sarah Murdoch calls for a ban on biotechnology companies owning gene patents, industry body AusBiotech has called for calm, arguing that biotech and reformers are closer to agreement on matters than people realise.**

Proposed changes to gene patenting legislation were on the agenda today at a non-partisan Parliament House breakfast held to debate the issue.

In a statement released ahead of the breakfast, AusBiotech said it was deeply concerned that some views being expressed were founded on what it called incomplete information.

“Without losing sight of the public concerns being expressed, AusBiotech is suggesting a solution that, with care to include all relevant stakeholders, can deliver the outcomes being sought,” the national body said.

The organisation supports the research exemption to patent infringement and patient access to life-changing medical tests, therapies and devices.

AusBiotech chief executive Anna Lavelle spoke to *BTN* from Canberra and said gene patenting reform was a complex issue which would take a number of conversations and iterations before a common understanding could be reached.

#### Common ground

The industry body chief said the biotechnology industry and those calling for reform were closer to agreement on matters than was generally realised.

“We are at the beginning of that journey [towards a common understanding] and we are determined to take this through and make sure that the right balance is struck,” she said.

AusBiotech has no objection to the call for a research exemption to gene patents and had made this clear in a May 2009 submission to IP Australia, Lavelle said.

A common ground between reformers and AusBiotech was the belief that a standalone DNA sequence without novelty, invention and use should not be

patentable.

She said some had incorrectly formed the impression that the industry body believed these sequences, that have not passed those tests, should be patentable.

Another matter biotech and reformers agreed on was that there should be a better way to question and monitor patents – one that offers an alternative to the courts.

“There is room there for another way that has not yet been suggested by anyone in the debate that I am aware of,” Lavelle said.

She said AusBiotech could add some value to the debate, such as with suggestions to members of parliament.

### **Differing views**

AusBiotech’s chief executive called for a narrow scope to reform.

“It seems to us that some people want to go very broad with this conversation – and include all biological material, antibodies, proteins, viruses, plant material, everything, and we believe that is too broad,” she said.

If a broad scope is taken to reform, this would mean a number of things for the biologics and medicines area.

“It would be a disincentive for venture capitalists to invest in companies that do not have appropriate patent positions,” Lavelle predicted.

“It would mean that, if the extreme case were enacted in Australia, that we would put at risk future biologic therapies and diagnostic tests and that is what we are trying to prevent.”

### **Parliamentary debate**

Gene patenting is expected to reach the floor next week, and is expected to be debated again in February during the next session of Parliament.

AusBiotech’s chief executive predicted that if the best possible outcome for the industry was not reached during this session of Parliament then gene patenting would become an ongoing issue.

“There will be heightened concerns from the industry if they feel it is going to impede on their freedom to operate,” Lavelle said.

AusBiotech believes its solution could deliver those outcomes in a way that gave certainty to the research community and the public without destabilising Australia’s medical sciences and biotechnology sectors.

### **Breakfast beliefs**

A number of views were presented at this morning's non-partisan breakfast to consider the future for gene patents.

One of the speakers, oncologist and Cancer Council Australia chief executive Professor Ian Olver, said parliamentary support from the Labor and Liberal parties reflected growing community concern about the need to protect future medical research and health care from what he called an outdated gene patent system.

Another supporter of reform, National Breast Cancer Foundation patron and Murdoch Childrens Research Institute ambassador Sarah Murdoch said there were dire consequences from allowing genes to be patented.

Labor MP and Federal Member for Fremantle Melissa Parke has called for changes to the Patents Act and will introduce a private member's bill to Parliament next week, calling for a [prohibition on gene patents](#).

"ALP MP Melissa Parke has shown great policy leadership in moving to amend the Patents Act to exclude human biological materials," Olver said ahead of the breakfast.

While Olver opposes the patenting of genetic material, others have called for clarification and support for a research exemption to gene patents.

Opposition communications spokesperson Malcolm Turnbull attended with opposition health spokesperson Peter Dutton, who indicated the Liberal Coalition would introduce a similar bill to demonstrate bipartisan support for the issue.

Independent senator Nick Xenophon and independent MP Rob Oakeshott both participated and Oakeshott said he was encouraged by cross-party support for the changes to gene patenting legislation.

