# NIH defends gene patents as filing deadline approaches

**Washington.** With an eye on a 20 June deadline to extend its controversial cDNA patents to the rest of the world, the US National Institutes of Health (NIH) last week vigorously defended its approach in spite the concerns of its government partner in the US genome project and criticism from other countries.

Speaking at a public meeting of an interagency committee that is formulating a US policy on gene patents, Bernadine Healy, the NIH director, repeated that NIH was following both legal precedent and a legislative mandate to commercialize its inventions when it filed a patent for more than 2,000 partial cDNA sequences last June. She noted that the two main associations representing virtually all the US biotechnology industry — the Industrial Biotechnology Association (IBA) and the Association of Biotechnology Companies (ABC) — support the NIH patent application. And she reproached other countries — specifically mentioning Britain — that have criticized the NIH application "but have not officially embraced a uniform policy of full disclosure or of patenting".

The meeting was ostensibly to solicit public input for the deliberations of the committee, a genome patent working group that serves under the Federal Coordinating Council for Science, engineering and Technology within the White House. But after nearly a year of debate, most groups with an interest in the matter have already made their case, and the meeting, scheduled for two days, lasted only one.

Nevertheless, the working group intends to make sure that the government does not repeat its mistake of making a decision on this subject without getting input from every possible source. European and Japanese patent law gives the United States a 12-month grace period after a US patent application in which to file elsewhere. For NIH that deadline arrives on 20 June, and US officials promise that they will have adopted a coherent policy by then. Deciding not to file in Europe and Japan next month would be a policy reversal nearly as significant as the initial decision to file.

One entity, surprisingly, that would not mind seeing that kind of policy change is the US Department of Energy (DOE). David Galas, director of the DOE side of the US genome project and a member, with Healy, of the interagency patent committee, revealed tensions within the government on the issue.

"We're not against patenting, or the patenting of genes", he began. "Our reservations are otherwise." He then listed several "unsettling aspects of the [NIH] patent", including its "potential to inhibit collaboration and the free exchange of data, both nationally and internationally. We're already observing this", he noted, in apparent reference to the disputes between the NIH and the British Medical Research Council (MRC) over access to MRC genome data (see *Nature* **354**, 96; 1991).

Pursuing such patenting of partial gene sequences, Galas warned, could lead to further disputes and delays, could "inhibit real innovation" and could clutter the commercial front with patents that are "all but useless". Another opponent of cDNA patenting who spoke at the meeting was Axel Kahn, research director of the French science agency, INSERM, and president of the French biomolecular engineering committee. Presenting the French government position, Kahn expressed "firm" opposition to patents on partial gene sequences, and accused NIH of exaggerating the risk of not patenting. NIH argues that allowing cDNA sequences to be published without intellectual property right protection robs industry of an incentive to develop products based on those sequences. That claim "seems to have no basis whatsoever in fact and, it must be said, was uttered to further the cause", Kahn alleged. But few within US industry seem to be worried about that. In a letter sent last week to President George Bush, the ABC supported the NIH patent application and future sequences as "essentially the only responsible course under existing federal law" while the issue of patentability remains open. Following the IBA, which drafted a similar statement earlier this year, the ABC called for NIH to work with industry on a licensing policy for the sequences.

Given that a great deal of work is needed to turn a partial cDNA sequence with unknown function into a marketable product, the ABC asked NIH to license the sequences non-exclusively.

**Christopher Anderson**

# British JET staff to strike over pay and prospects

**London.** Anger over unequal pay and fear about their future have led British workers at the Joint European Torus (JET) to the brink of a series of one-day strikes. The experimental nuclear fusion project, based at the Culham Laboratory in Oxfordshire, is undergoing an upgrade that is expected to be completed in 15 months, and union representatives at JET expect any job action to disrupt that timetable significantly.

Researchers from laboratories throughout Europe are hired to work at JET under the European Atomic Energy Community (EURATOM), and their salaries are set by a common scale. On the other hand, British scientists and technicians work at JET under the aegis of what was the UK Atomic Energy Authority (UKAEA), and are paid on a separate scale. In effect, a Euratom scientist earns twice as much as a British scientist for the same job.

As well as reflecting a long-standing dissatisfaction with this situation, the possible strike also signals growing uneasiness with employment prospects after the JET project ends in 1996. While European staff may return to the laboratories from which they came and apply from within EURATOM for the next phase of the fusion research programme, British staff must compete as external applicants. Traditionally, internal applications have the upper hand in bidding for jobs on such joint projects.

Officials from the union, the Institution of Professionals, Managers and Specialists (IPMS), say support for the strike is strong. Around 90 per cent of the 240 British scientists and technicians at JET — who make up half the workforce — belong to the union.

IPMS officials at JET have been campaigning for parity of pay for several years, but have made little headway. A petition to the European Parliament last year resulted in the Parliament directing the European Commission (EC) to set up an independent enquiry. The report is now overdue, and last week a delegation from JET travelled to Brussels to try to move things forward.

A meeting with Fillipo Pandolfi, the EC's commissioner for research and development, and Paolo Fasella, director general of the directorate that oversees such research projects, resulted in the promise of another committee, due to report in September. Union representatives felt that response was insufficient, and authorized a strike vote.

In addition to being unhappy about their prospects under EURATOM, British staff are also dissatisfied with UKAEA, which they were obliged to join in order to work on JET. UKAEA was funded entirely by the British government when JET was begun in 1978, but it is now responsible for generating much of its own income. Staff say that it no longer places such a high priority on research, and they are unhappy with the prospect of having to return to it once the JET project ends.

**Ian Mundell**