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USPTO Accepts Challenge on Legality of Animal Patent

Advocacy Groups Applaud Move that Could Open Debate on Patenting Animals

Jenkintown, PA—This week the United States Patent and Trademark Office (USPTO) announced a decision to open an investigation into whether rabbits and other animals whose eyes have been purposefully damaged can be patented. The patent (#6,924,413) which is being challenged by the American Anti-Vivisection Society (AAVS), the Alternatives Research & Development Foundation (ARDF), and PatentWatch, argues that animals are not patentable subjects and that, in fact, animal patents provide an incentive to harm animals for economic gain.

In addition, the patent challenge highlighted numerous instances of prior scientific publications that should invalidate the patent. The USPTO agreed that “substantial new questions of patentability” were raised.

The groups’ first challenge to an animal patent succeeded in having the University of Texas drop its patent claims on beagles who were severely sickened and infected with mold. In addition, the Canadian Supreme Court ruled in 2002 that animals could not be patented, further challenging the legitimacy of animal patents in the U.S.

“Animal patents have no place in our society and are an inappropriate application of U.S. patent law. A rabbit with damaged eyes is still a rabbit,” said Tracie Letterman, an attorney and Executive Director of AAVS.

Results from a 2004 Opinion Research Corp. survey of 1,008 U.S. adults commissioned by AAVS found that two out of three people consider it unethical to issue patents on animals as if they were human inventions. Further, 85 percent of those surveyed were not even aware that universities and corporations are getting patents on animals.

More than 660 patents have been issued on animals since the Patent Office granted its first animal patent in 1988. Interestingly, approximately one-third of all animal patents granted to date are issued to foreign companies. The Japanese-owned Biochemical and Pharmacological Laboratories, Inc., filed the patent that is the subject of this challenge.

“Allowing foreign or domestic corporations to patent animals who have been intentionally injured, sickened, or genetically altered provides an incentive to harm animals for economic gain,” said Sue Leary, President of ARDF. “This directly conflicts with laws encouraging the replacement of animals in experiments with alternatives.”

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“We’re pleased with the Patent Office for re-opening this patent application and hope that they will do the right thing by denying this patent,” said Andy Kimbrell of PatentWatch. “Our legal challenge and the poll numbers showing widespread public opposition to animal patenting should send a strong message to the Patent Office that this patent is neither legally valid nor morally acceptable.”

For more information, including document downloads, visit www.StopAnimalPatents.org.

About AAVS

The American Anti-Vivisection Society (AAVS) is the oldest non-profit animal advocacy and educational organization in the United States dedicated to ending experiments on animals in research, testing, and education. Founded in Philadelphia in 1883, AAVS pursues its objectives through legal and effective advocacy, education, and support of the development of non-animal alternative methods.

About ARDF

The Alternatives Research & Development Foundation funds and promotes the development, validation, and adoption of non-animal methods in biomedical research, product testing, and education.

About PatentWatch

The PatentWatch Project of the International Center for Technology Assessment works to expose and challenge the inappropriate use of the U.S. patent system. www.icta.org/patent/index.cfm