Statement on Gene Patent Ruling from the American College of Medical Genetics

American College of Medical Genetics Lauds Federal Court Ruling of Gene Patents as Invalid

March 30, 2010 – Bethesda, MD | The American College of Medical Genetics (ACMG), one of the original plaintiffs in the anti-gene-patenting lawsuit filed in 2009, celebrated the US District Court ruling yesterday that genes are "unpatentable."

The outcome of this case is likely to have far-reaching positive implications for physicians, researchers and patients. "The invalidation of gene patents will allow patients to get second opinions on test results, encourage quality improvement of current testing, allow researchers to develop new and better methods of testing and decrease costs of laboratory testing. This is a huge, huge victory for better patient care," said Michael S. Watson, PhD, FACMG, executive director of the ACMG.

ACMG President Bruce R, Korf, MD, PhD, FACMG added "The successful outcome will pave the way towards genome-wide testing, avoiding an obstacle course of patent protection of individual genes that will prevent reporting of a complete set of results."

ACMG was the first professional medical association to establish a position against gene patenting. In its 1999 ACMG Position Statement on Gene Patents and Accessibility of Gene Testing, which was reaffirmed in 2005, ACMG stated that: "It is the American College of Medical Genetics' position that genes and their mutations are naturally occurring substances that should not be patented."

The decision by the Federal District Court for the Southern District of New York was in response to ACMG's and the other plaintiffs' request for summary judgment on the question of whether seven patents relating to the BRCA1 and BRCA2 genes are naturally occurring substances and, therefore, not patentable. The basic legal question was whether "isolated" DNA is "markedly different" from naturally occurring DNA. The court concluded that, even if there are differences in structure and function, it is not. The court found that the patented genes were merely purified and not changed in a way that would make them patentable subject matter rather than naturally occurring substances.

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