

June 4, 2019

Senator Lamar Alexander
Chairman
U.S. Senate Health, Education,
Labor and Pensions Committee

Senator Patty Murray
Ranking Member
U.S. Senate Health, Education,
Labor and Pensions Committee

Dear Chairman Alexander and Ranking Member Murray:

The American Civil Liberties Union strongly urges you to hold HELP Committee hearings on the medical and scientific implications of legislation authorizing gene patenting. Recently, there has been a growing interest among Members of Congress to reform current patent law and permit patents of human genes and naturally-occurring associations between genes and diseases. The harms to patient health care, diagnostic and treatment costs, and research would be devastating.

A subcommittee of the Senate Judiciary Committee tomorrow begins three days of hearings, with 45 witnesses, to discuss amendments to the patent statute, but none of the witnesses so far announced are from the affected patient communities.

However, before these efforts go further, it is imperative that the Committee assert its jurisdiction and hold hearings to evaluate the effects of gene patenting on patient health care, diagnostic and treatment costs, and research.

At its core, continuing to ban gene patenting is a health care issue. Not only does it affect the ability of scientists to conduct potentially life-saving research, but also for patients to access genetic testing and targeted therapies. For over 150 years, the Supreme Court has held that laws of nature, natural phenomena, and abstract ideas are not patent-eligible under the Patent Act.¹ Recent cases from 2012-2014, all issued by a unanimous Supreme Court, affirm and clarify these important exceptions to patent-eligibility. The U.S. government even opposed the patents.² Dr. Francis Collins, Director of the National Institutes of Health, hailed the ruling in the Supreme Court case holding that human genes cannot be patented, saying in a statement that “[t]he decision represent[ed] a victory for all those eagerly awaiting more individualized, gene-based approaches to medical care.”³

¹ Alice Corp. Pty. Ltd. v. CLS Bank Intern., 573 U.S. 208, 216 (2014).

² Brief for the United States, as Amici Curiae Supporting Neither Party, 566 U.S. 66 (2012) (No. 12-398).

³ Press Release, Statement by NIH Dr. Francis Collins on U.S. Supreme Court Ruling on Gene Patenting (Jun. 13, 2013) <https://www.nih.gov/about-nih/who-we->



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And yet, despite over a century and a half of court-developed precedent, several Members of Congress are now considering dramatic changes that could greatly harm patient health care and change the American health care system as we now know it.

In light of these efforts, it is critical that the Committee hold hearings on gene patenting and its effect on patient health care. This issue implicates not only the health and wellbeing of all individuals but raises the fundamental question of whether our genes, the most basic building blocks of our lives, can be claimed as one company's intellectual property.

Sincerely,



A handwritten signature in black ink, appearing to read "Ronald Newman".

A handwritten signature in black ink, appearing to read "Kate Ruane".

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