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3 October 2001

B5-0633/2001 }
B5-0641/2001 }
B5-0651/2001 }
B5-0663/2001 }
RC1

JOINT MOTION FOR A RESOLUTION

pursuant to Rule 50(5) of the Rules of Procedure by

– Ria G.H.C. Oomen-Ruijten and Peter Liese, on behalf of the PPE-DE Group
– Evelyne Gebhardt, Elena Ornella Paciotti and Margrietus J. van den Berg, on behalf of the PSE Group
– Hiltrud Breyer, Paul A.A.J.G. Lannoye and Nuala Ahern, on behalf of the Verts/ALE Group
– Geneviève Fraisse, Pedro Marset Campos, Erik Meijer and Armando Cossutta, on behalf of the GUE/NGL Group
– José Ribeiro e Castro, on behalf of the UEN Group
– Hans Blokland, on behalf of the EDD Group

replacing the motions by the following groups:

– PPE-DE (B5-0633/2001),
– UEN (B5-0641/2001),
– PSE (B5-0651/2001),
– Verts/ALE (B5-0663/2001),

on the patenting of BRCA1 and BRCA2 (‘breast cancer’) genes

European Parliament resolution on the patenting of BRCA1 and BRCA2 ('breast cancer') genes

The European Parliament,

– recalling its resolution of 30 March 2000 on the decision by the European Patent Office with regard to patent EP 695 351 granted on 8 December 1999, calling on the EPO 'to ensure that all ... patent applications in Europe do not violate the principle of non-patentability of humans, their genes or cells in their natural environment...',

– having regard to the 'Advice on the patentability of the human genome', adopted by consensus by the International Bioethics Committee of Unesco (IBC) at the conclusion of its Eighth Session on 14 September 2001 which states 'that there are strong ethical grounds for excluding the human genome from patentability' and further recommends 'that the World Trade Organisation (WTO), in its review of the TRIPS Agreement, clarify that, in accordance with the provision of Article 27(2)1, the human genome is not patentable on the basis of the public interest considerations set out therein, in particular, public order, morality and the protection of human life and health',

A. whereas a US company, Myriad Genetics, has been granted US patents on the so-called 'breast cancer genes' BRCA1 and BRCA2 and has applied to the European Patent Office for patents on these genes as well,

B. whereas, in the US, genetic laboratories are licensed by Myriad Genetics to test for a very limited number of mutations of BRCA1 and 2 only (with a fee payable) and are obliged to refer for any further testing to Myriad Genetics, thus incurring further and considerable expense,

C. whereas cheaper and more effective methods of testing for breast cancer genes BRCA1 and BRCA2 exist in the European Union and whereas the existing US patents are already impeding their use,

D. whereas the European Patent Convention, in particular its Article 52.2(a), stipulates that no patents shall be granted for discoveries, and Article 53(a) excludes inventions the publication or exploitation of which would be contrary to 'ordre public' or morality from patentability,

E. whereas the enterprise's monopoly, based on US patents, and its marketing policy are already compelling women in Europe to wait longer than necessary for test results, as the performance of some genetic tests is only permitted at the laboratories of Myriad Genetics in the USA,

F. whereas the granting of similar patents by the EPO could create a monopoly for the firm in question within the European Union as well, which could seriously impede or even completely prevent the further use of existing cheaper and more effective tests for the breast cancer genes BRCA1 and BRCA2; whereas this development could have an unacceptable

detrimental effect on the women concerned and constitute a serious drain on the funds of public health services; whereas moreover it could seriously impede the development of and research into new methods of diagnosis,

G. whereas the EPO granted patents on BRCA1 to Myriad Genetics in the form of Patent No 699 754 of 10 January 2001 and Patent No 705 903 of 23 May 2001 and is considering granting further patents on the breast cancer genes BRCA1 and BRCA2,

H. whereas the time limit for lodging objections to Patent No EP 699 754 of 10 January expires on 10 October 2001, and whereas the Institut Curie and the French Ministry of Health intend to lodge an objection to this patent,

1. Expresses its dismay at the possible consequences of the granting by the European Patent Office of a patent on a human gene;

2. Reiterates its call on the European Patent Office 'to ensure that all ... patent applications in Europe do not violate the principle of non-patentability of humans, their genes or cells in their natural environment...';

3. Calls on the EPO to reconsider patenting these genes and associates itself with those tabling objections to the granting of these patents, such as the Institut Curie, and reiterates its demand for a review of the operations of the EPO to ensure that it becomes publicly accountable in the exercise of its duties, and for amendment of the European Patent Convention to ensure that the EPO may revoke patents on its own initiative;

4. Reiterates its call on the Council, the Commission and the Member States to adopt the measures required to ensure that the human genetic code is freely available for research throughout the world and that medical applications of certain human genes are not impeded by means of monopolies based on patents;

5. Asks its competent services to prepare without delay an objection to be filed to European patents No. 699 754 and No. 705 903 and calls on the other institutions of the EU and Member State governments to do likewise;

6. Instructs its President to forward this resolution to the Council, the Commission, the European Patent Office and the governments of the Member States.