The American Society of Human Genetics

April 27, 2010

ASHG STATEMENT ON AMP, et al v. Myriad PATENT RULING IN FEDERAL DISTRICT COURT

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The American Society of Human Genetics is pleased with the ruling by the U.S. District Court that patents on human genes are invalid because genes are products of nature.

The decision in the US District Court, if upheld on appeal, will improve patient access to testing and second opinions, and will also enhance genetic research. The human genetics community will now be able to study entire genomes without the legal barriers imposed by patents and exclusive licensing of specific genes. ASHG also understands that the issues in this case are complex, and that the ruling actually has several parts to it. When generalized to “the patenting of genes” we believe that promoting the position taken by Judge Sweet- that genes are products of nature, and therefore should not be patented- is the best interpretation. However, we are also aware that many other genes have been patented but generously licensed, and the research and clinical use of these genes has proceeded without serious interference.

The patenting of genes has not proven to be a boon to scientific research. On the contrary, such patents can interfere with medical practice and adversely affect innovation. If this decision stands, researchers would be free to perform research on all parts of the genome, including the unfettered use of whole genome sequences. Genomic technology is moving so rapidly that patent protection of specific genes can, in effect, interfere with full use of some of the newest technologies.

Patenting and other forms of intellectual property protection will continue to be legitimate and important incentives for man-made inventions. For example, DNA sequencing technologies will remain protected, as will drugs and therapies, including DNA or cell-based therapies, that arise from biotechnology research. However, in nullifying patents on genes that are naturally occurring substances, this court has paved the way for more rapid advances in genetic research and medicine.