Ethicists back proposed EU ban on patents for technology using embryos

LONDON – Twenty-five ethicists and lawyers from 11 European countries have stated their support for a proposed ban on patenting technologies derived from experiments on human embryos.

In a letter to the journal Nature, published June 30, the group argued that commercial interests alone were not sufficient to decide European policy.

The group was led by David Jones, director of the Anscombe Bioethics Centre in Oxford – formerly the Linacre Centre, a bioethics institute serving the Catholic Church in Great Britain and Ireland.

Signatories sought to express their opinion in the face of pressure put on the European Court of Justice to allow such patenting in spite of the opinion of Judge Yves Bot, one of its eight advocate generals, that it should be forbidden.

The advocate general recommended March 10 that European law should not allow inventions derived from human embryos to be patented "for industrial or commercial purposes." He argued that patents were not allowed on the human body "at the various stages of its formation and development," including the embryonic stage.

He gave his opinion during a case brought by the environmental group Greenpeace, which is challenging a patent filed by scientists in Germany. A legally binding decision is expected to be issued by the court this summer.

Stem-cell scientists have objected to Bot's opinion, however, and 13 of them argued in an April 28 letter to Nature that biotechnological companies "must have patent protection" or "European discoveries could be translated into applications elsewhere."

They wrote that "innovative companies must have patent protection as an incentive

to become active in Europe."

"The advocate general's opinion, therefore, represents a blow to years of effort to derive biomedical applications from embryonic stem cells in areas such as drug development and cell-replacement therapy," the scientists said in their letter.

The 25 ethicists and lawyers, mostly from Catholic institutes, responded to the intervention of the scientists by urging the European court to "uphold the standard prescribed by the law."

Their letter says: "There will often be some commercial risk whenever Europe defends a more rigorous standard than is defended elsewhere.

"This risk is not itself an argument against upholding the standard prescribed by law," they wrote. "Without judgment in this case the resolution of patent law is and ought to be more than a question of European commercial interest."

In a July 6 email to Catholic News Service, Jones said the forthcoming court ruling was "directly relevant" to the United States.

"It affects U.S. companies working in embryonic stem cells who seek European patents on their technologies," he wrote.

"This debate is closely parallel to debates in the U.S. about federal funding for embryonic stem-cell research and patenting of embryonic stem-cell technologies – and in particular whether a prohibition on commercialization of the embryo extends to stem-cell technologies," he said in his email.

Jones added: "If the court decides the embryonic stem-cell technologies are not patentable, then this makes these technologies less commercially attractive … and sets a precedent for pro-lifers in the U.S. to get the same respect for the embryo in the U.S. as is recognized in Europe. It also shows that the issue has not gone away."