PEER REVIEW

Battle Ends in $21 Million Settlement

A 12-year-old fight over allegations that one group of scientists misappropriated another's discovery ended abruptly last week on the eve of a jury trial in U.S. court in Seattle. While not admitting any wrongdoing, the defendant, Immunex Corp. of Seattle, agreed to turn over to the plaintiff, Cistron Biotechnology of Pine Brook, New Jersey, a set of patents it had been accused of obtaining in part by breaching the traditional confidentiality of the scientific peer review system. Immunex also agreed to give Cistron $21 million, paid in five installments through the year 2000.

The settlement, reached on 31 October, ends a dispute that began in 1984 between rival scientific teams backed by these two companies. Each side claimed it had been first to sequence the gene for a human immune system molecule called interleukin-1, and both obtained patents on elements of IL-1, then viewed as having potential value in treating immune system disorders. But Cistron claimed that an Immunex scientist named Steven Gillis made improper use of information from an unpublished Cistron paper that *Nature* had sent him to review. Records from the U.S. Patent and Trademark Office introduced as evidence revealed that errors in a DNA sequence in Cistron's draft paper appeared in Immunex's patent application (*Science*, 22 December 1995, p. 1912). Cistron initially sued for damages of more than $100 million, but the judge reduced the claim to no more than $67 million.

Immunex denied that it had misappropriated any DNA data, saying it had made its discoveries independently and that the sequence errors had been copied into its patent through a clerical error. But Immunex appeared to be developing a second line of defense: that the law does not prevent the use of information gleaned from reviewing unpublished works. Its lawyers compiled statements from prominent experts, apparently trying to build a case that there are no hard and fast rules of confidentiality in peer review, and that reviewers have no legal obligation to keep data secret, since they do not sign a contract with journals to do so.

A statement issued jointly by the two parties last week carefully avoided rehashing old battles. Immunex, for its part, declared that the settlement was being made as "a business decision" to avoid "a lengthy trial" and the financial uncertainties associated with it. Cistron, which had already gone through bankruptcy, claimed that it "looks forward to exploiting" its newly acquired patent rights. However, earlier clinical trials of IL-1 suggested its toxic effects may limit its therapeutic value.

Although the parties have ended their marathon dispute, they have left unanswered the question of whether the traditional confidentiality of the peer review system has any legal validity. That will have to be addressed later, when the next peer review battle breaks out in court, says an expert retained by Cistron, because "It's going to come up again."

–Eliot Marshall

IRELAND

Long-Awaited R&D Plan Short on Action

After 2 years of strident debate, the Irish government last week published its long-awaited, first-ever white paper on science and technology. But as researchers began to digest the contents of the 150-page document, their initial delight that the government is taking their interests seriously turned to concern over the shortage of firm promises: The white paper proposes new mechanisms for establishing science policy, but contains no hoped-for pledges to increase funding.

"It's beautifully written and excellent in terms of aspiration, but a major weakness is a lack of targets and demand for funds," says physicist David Fegan of University College Dublin, former chair of the Irish Research Scientists' Association (IRSA), a lobby group. "The onus has been thrown back on scientists to put pressure again on government," he says.

IRSA was instrumental in bringing the government's poor record in science funding to public attention several years ago. It sparked a debate in the press that prompted the previous government to appoint a committee in 1994 to look into the community's concerns. The Science, Technology, and Innovation Advisory Council (STIAC)—headed by industrialist Dan Tierney and with a strong contingent of academic researchers—issued a report last year urging widespread reform of the management and coordination of research both in business and the public sector. But the crux of its recommendations was the need for substantially more cash. Out of a budget for science and technology activities of $1.17 billion in 1996, only $3.5 million will be spent on basic research; STIAC said this should be increased to $9 million a year.

The report might have been buried when the government changed in 1994, but the new administration quickly raised scientists' hopes. It set up a task force to look at how STIAC's recommendations might be implemented and appointed Ireland's first-ever junior minister for science with a voice but no vote in the Cabinet, Patrick Rabbitte. The task force reported its conclusions late last year and the government promised a white paper. But as time passed, researchers began to doubt that the promised document would see the light of day (*Science*, 13 September, p. 1487).

EMBASSY OF IRELAND

Promise kept. Science Minister Patrick Rabbitte.

So when Rabbitte unveiled the white paper last week, it got a warm welcome. It contained two concrete proposals: the setting up of a new science advisory council, and a new government committee to ensure that science, technology, and innovation policies and programs are drawn up and implemented in a coherent manner. But it set no targets to increase spending on science and technology.

Rabbitte says the document concentrates on administrative structures because he doubts that the present system is capable of setting targets. "The aim was to set down a framework which would determine the evolution of policy and targets in the future," he says. "The obstacles to proper recognition of science and technology are inherited ones of culture and history rather than funding."

But the lack of funding targets immediately drew criticism. STIAC Chair Dan Tierney says he is pleased that "the government's response to all of [STIAC's recommendations] was positive. ... But we now need to see these commitments turning into extra funds for science and technology in the next budget round." And immunologist Cliona O'Farrelly of St. Vincent's Hospital in Dublin says, "It's terrific to see the government doing something, and to see science and technology shift from the letters page to the news and editorial pages of the newspapers. But I'm disappointed by the lack of specific targets and a failure to commit firmly to investment in basic research and science education." She adds: "The white paper still reads as if science is not really an integral component of society's intellectual and economic growth."

–Nigel Williams