

play a role in a particular disease. As the scientist continues to study the disease pathway, perhaps in collaboration with colleagues at other institutions, the research eventually yields a molecule that might serve as a drug target and may have commercial value. Further use of Cre-loxP is not necessary for drug screening, but arguably it was “directly or indirectly” through prior use of Cre-loxP, under the terms of DuPont’s Non-Commercial Research License Agreement, that the target and its function were identified. May the university enter into licenses with commercial firms without having to negotiate further with DuPont? Or must the university seek a commercial license “at the sole discretion of DuPont”?

If DuPont’s rights under the agreement reach through to subsequent discoveries that do not make ongoing use of Cre-loxP, we stand by our initial characterizations. If the university has no further obligations to DuPont, DuPont could spare itself and its licensees the burden of costly and time-consuming negotiations by specifying in its agreements that “nothing in this agreement gives DuPont any rights to any future invention made possible through prior use of Cre-loxP technology, except to the extent that use of the invention involves ongoing infringement of DuPont’s patents.”

Piercing the fog of any single RTLA is exhausting. As more such agreements are proposed, more time is consumed reviewing and renegotiating their terms. As more such agreements are signed, their provisions will inevitably come into conflict, requiring future negotiations over rights to future products. Each agreement increases the threat that promising biomedical discoveries will be forgone in a tragedy of the anticommons.

Rebecca S. Eisenberg

Michael Heller

University of Michigan Law School, Ann Arbor, MI  
48109-1215, USA

#### CORRECTIONS AND CLARIFICATIONS

In the 16 October letters by Michael D. Green and George W. Pearsall published under the title “Standards for engineer witnesses” (*Science’s Compass*, pp. 415 and 416, respectively), the name of the company Merrell Dow Pharmaceuticals, Inc. was misspelled. The name was also misspelled in the News of the Week article “Should engineers meet same standards as scientists?” by Jocelyn Kaiser (11 Sept., p. 1578).

Figure 5 (p. 703) in the Research Article “The transcriptional program of sporulation in budding yeast” by S. Chu *et al.*, 23 Oct., p. 699) was printed incorrectly. The correct figure appears at right.

