

## JAPAN

## Lab Chiefs Decry Push For Strategic Research

**TOKYO**—Shattering a tradition of restraint in criticizing government policy, 14 current and four former heads of major Japanese laboratories have sent an open letter to Prime Minister Junichiro Koizumi, pleading for greater recognition of the value of basic research and a bigger role for active researchers in shaping the nation's research policies.

The lab chiefs' main target is a report issued on 11 July by the Council for Science and Technology Policy, the nation's highest science advisory body. The 12-page report recommends that the government realign its research priorities "to strengthen industrial competitiveness, invigorate the economy, [and] promote a high quality of life and a vigorous society." In particular, the council said that the budget for the

fiscal year beginning next April should lean toward the life sciences, information technology, environmental studies, and nanotechnology.

The lab chiefs responded the same day, complaining to Koizumi, who chairs the council, that the report is a vote for "the short-term goal of strengthening industrial competitiveness." Such a policy would be shortsighted, they argue, because "advanced science and technology must be supported by the cultivation of basic research in a wide range of fields." The missive was drafted by Yoshiaki Hotta, director-general of the National Institute of Genetics, based in Mishima; Norio Kaifu, director-general of the National Astronomical Observatory of Japan in Mitaka; and Motoya Katsuki, head of the National Institute for Basic Biology in Okazaki.

"The [report] really says very little about basic research," says Kaifu. The lab heads felt they had to speak up now to ensure that their concerns are considered as the various ministries start work on next year's budget.

Koji Omi, a career politician who was recently named to the new position of minister for science and technology policy, says the government agrees with the lab

chiefs and doesn't see a gap between their concerns and the council's report. "We recognize the importance of basic science," he said at a press conference, "and those laboratory heads don't have to worry" about budget allocations.

But the lab directors aren't taking anything for granted. Hotta says the group is weighing how to be more active in influencing future policy debates. "This is the first time we have presented a request [to a prime minister], but we may do so regularly from now on," he says.

—DENNIS NORMILE

## INTELLECTUAL PROPERTY

## Appeals Court Clears Way for Academic Suits

Postdocs and junior faculty members generally have a tough time convincing a court to hear their grievances when they feel they've been denied a share in the financial rewards from discoveries they participated in. Now, the trip to the courthouse may have become a little easier.

In a unanimous ruling on 3 July, a three-judge panel of the U.S. Appeals Court for the Federal Circuit in Washington, D.C., removed a major roadblock facing one such claim. Patent attorneys say the ruling sets a strong precedent for similar cases. The judges also admonished universities and senior faculty members to keep their junior colleagues fully informed of intellectual property claims they file.

The ruling came in a case brought by herpesvirus researcher Joany Chou, a former postdoc at the University of Chicago who is now self-employed. Chou claims that in 1990 she discovered a variant herpesvirus gene that may be useful in vaccine manufacturing. She co-authored a paper on the finding with her lab chief and mentor, Bernard Roizman, a well-known virologist at the university. Roizman and the university filed for a patent, issued in 1994, on uses of the gene. When Chou learned about the patent—in 1997, she says—she demanded to be named as an inventor. She eventually sued the University of Chicago, Roizman, and two spin-off corporations, seeking due credit and a share of profits.

Roizman and the other defendants deny Chou's allegations and argue that Roizman

was the inventor. They sought to have Chou's suit thrown out on grounds that she has no legal "standing" because she can never claim to be the owner of the discovery. (Discoveries made in university labs belong to the university, no matter who the inventor is.) The Chicago federal judge who heard the case, James Zagel, agreed. He dismissed Chou's claims last year without examining the contentious details of who discovered what (*Science*, 31 March 2000, p. 2399).

But the appeals court read the law differently. In a sweeping reversal, it ruled that the law "imposes no requirement of potential ownership" on people who want to go to court to prove they are the inventor of something that has already been patented. "Chou should have a right to assert her interest, both for her own benefits and in the public interest," the court ruled. It went on to suggest that an inventor seeking legal redress of this kind doesn't even need to prove a direct financial stake. "After all," the judges said, "being considered an inventor ... is a mark of success in one's field, comparable to being an author of an important scientific paper." And that kind of interest in a patent is probably enough to get a claimant into court.

"I think this is an important decision," says Sam Pasternack, a patent attorney who handles many academic intellectual property cases at the firm of Choate, Hall & Stewart in Boston. He is impressed not

only by the fact that the ruling lowers the barriers to bringing such cases to court, but also by strong language in the ruling on the "fiduciary duty" of professors and university officials. The tone, he adds, implies that the lower court in Chicago "absolutely blew it."

The university will not appeal this decision, says Larry Arbeiter, a spokesperson; it will prepare for a trial in Chicago this fall. The university has examined Chou's claims carefully, he says, and "found them wanting." Roizman's attorney, Timothy Vezeau of the Chicago firm of Katten Muchin Zavis, says Roizman "looks forward to presenting the facts in court. ... He believes that Chou's assertions against him personally are absolutely meritless."

Chou's attorney, Paul Vickery of the Chicago firm of Niro, Scavone, Haller & Niro, says "it's hard to put a number" on the exact amount Chou is seeking, although it's likely to be in the tens of millions of dollars. Vickery is handling this case through a con-

**The court suggests that professors should disclose patenting decisions to junior staff members involved in the work.**



**Outspoken.** Japanese astrophysicist Norio Kaifu and other lab chiefs have attacked new report on research priorities.