

Biotech critic tries to sew up research on chimaeras

Erika Check, Washington

Scientists who are seeking to meld human embryonic stem cells with mouse embryos have been warned that they could be sued if they pursue the idea.

The 'chimaeric' embryos would be used to test the stem cells' ability to divide into cells with different functions (see *Nature* 420, 255; 2002). But Jeremy Rifkin, an

economist and well-known critic of the biotechnology industry, has told researchers to abandon their plans, claiming that he is about to win a wide-ranging patent on human-animal chimaeras.

"They're saying they cannot take advantage of therapeutic cloning with stem cells unless they place them in an animal model," Rifkin says. "And we're saying we control that."

Rifkin and Stuart Newman, a cell biologist at New York Medical College, applied for the patent in 1997. So far, examiners at the US Patent and Trademark Office have said three times that the application should be turned down — but it remains under review. Rifkin claims that he will prevail in a court appeal even if the patent office denies his claims.

Rifkin's lawyers have sent letters asserting the claims to prominent researchers in the field, including Ali Brivanlou, a developmental biologist at Rockefeller University in New York, Austin Smith of the University of Edinburgh, UK, and James Thomson of the University of Wisconsin at Madison.

But Brivanlou, one of the researchers working on a discussion paper considering the production of chimaeric embryos, says he is undeterred by the letter. "This certainly isn't going to stop me from doing anything," he says. "I'm not taking it seriously."

Brivanlou says that he is highly sceptical of Rifkin's warnings. He points out that Rifkin has not been awarded a patent and that Rifkin and Newman have not done the experiments described in their patent application as proof that it is possible to make a chimaeric embryo.

Rifkin and his lawyer contend that they don't have to make a chimaera to win a patent on it. "There is no rule, regulation, case law or statute of which I'm aware that requires the inventor to practise his or her invention," says Patrick Coyne, Rifkin's lawyer at the Washington firm Collier Shannon Scott.

A lawyer not associated with the case says that although this is technically correct, courts have recently asked for proof that biotechnology inventions actually work before granting patents on them. ■

