



1750 OCEAN PARK BOULEVARD, #200, SANTA MONICA, CA 90405-4938  
TEL: 310-392-0522 • FAX: 310-392-8874 • WWW.CONSUMERWATCHDOG.ORG

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Ed Penhoet  
Chairman, IP Task Force  
California Institute of Regenerative Medicine (CIRM)  
210 King St.  
San Francisco, CA 94107

Dear Ed Penhoet,

The key to keeping Proposition 71's promises of public benefit depends on who controls and owns the discoveries made with taxpayer-funded research. These intellectual property rules must be grounded in three principles: affordability, accessibility and accountability. There is a much greater possibility for conflicts and abuse in the commercial sphere, so the rules just approved for universities and non-profit institutions are only a starting point.

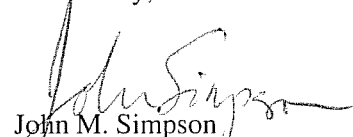
With biotech firms already lining up to share in the Prop 71 funds, it's disconcerting to hear venture capitalists like Steve Burrill refer to the stem cell institute's grants as "almost like free money." Clearly defined IP rules, governing such things as price and accessibility for underserved populations, will ensure that businesses receiving CIRM money will meet fair obligations to the public when they take taxpayer dollars. As you and the task force write IP rules for businesses you should remember that although Californians overwhelmingly approved Prop 71, they never intended a blank check for biotech.

If a patentable discovery results from Prop 71-funded research by a business, the state should own it and place it in a patent pool so that the research can be as broadly shared as possible. Rights to profitably commercialize the discovery could be licensed back to the firm.

If Prop 71 funds research, perhaps a clinical trial, for a treatment covered by a patent or license already held by a business, California should receive a fair commission when it is finally available on the market. The state should be able to take cash payments or, like any venture capitalist, negotiate an equity share – stock – in the business.

I appreciate the open and participatory approach you and the task force adopted in developing the Non-Profit Intellectual Property Policies. I look forward to the same process as IP rules for business are developed.

Yours truly,

  
John M. Simpson  
Stem Cell Project Director

cc: IP Task Force members