

Media Release

22 April 2008

University IP Case Raises Barriers for Commercialisation of Australian IP

Last week's Federal Court dismissal of the \$150 million legal battle between the University of Western Australia (UWA) and a former employee, raised significant concerns for all research organisations regarding the protection of their intellectual assets.

UWA claimed it had rightful ownership of the intellectual property (IP) rights to a liver cancer treatment technology, developed by Dr Bruce Gray during his time at the university.

Federal Court Justice Robert French found the university's IP policy insufficient and dismissed the claims against Dr Gray and the commercialisation company he founded, Sirtex Medical Ltd.

AIC Chief Executive Officer Dr Rowan Gilmore said the judgement had the potential to cause confusion among research organisations that sought to engage with industry and achieve outcomes from their research and IP.

"The commercialisation of the IP within Australia's research sector has the potential to not only achieve stellar economic returns for Australia, but also help solve the challenges of climate change or health problems with an aging population," Dr Gilmore said.

"The real issue here is not so much who receives the economic benefit of the research, but who benefits from the outcomes. We need to look through that and see the possible health benefits to cancer sufferers," he said.

"At the end of the day, we need to knock down the barriers that prevent the commercialisation of Australia's IP, not erect more, and this judgement is just one more challenge in the way of achieving outcomes."

Mallesons Stephen Jaques partner responsible John Swinson said that under common law, IP ownership generally rested with the employer provided the IP created lay within the scope of normal duties during employment.

"If a university wants to clarify its ownership position, this is best done by clear articulation of its IP policy and acknowledgement in an employment contract that the policy is accepted as a condition of employment. The contract itself then clarifies the scope of the role," Mr Swinson said.

The AIC is active in educating researchers about the commercialisation of IP through its flagship and highly acclaimed Commercialisation Bootcamps, and its TechFast program that works with small Australian businesses to help provide access and build collaborations with the research sector.

In addition to the cultural change brought about by Commercialisation Bootcamps to help prevent this sort of problem, the AIC actively encourages a strong IP policy and decision making framework to be put in place.

The AIC is a leading service organisation helping innovators achieve commercial success. Around Australia, the AIC helps business, research organisations and governments convert their ideas into successful outcomes.

We address market gaps and accelerate the commercialisation of know how and technology that our clients have created.

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