

List of Works Cited

Articles

- Annas, George J., *A French Homunculus in a Tennessee Court*, 19 THE HASTINGS CENTER REP. 20, 22 (1989) available at <http://www.jstor.org/stable/3561982> (last visited 11.8.2012)
- Bagley, Margo, *Patent First, Ask Questions Later: Morality and Biotechnology in Patent Law*, 45 WM. & MARY.L. REV. 469, 534 (2003)
- Bassil, Nick, *Developments in the Patentability of Inventions Relating to Human Embryonic Stem Cells*, 12 BIO-SCIENCE L. REV., 6 (2011)
- Bonadio, Enrico, *Biotech Patents Morality After Brüstle*, 7 EUROPEAN INTELLECTUAL PROPERTY REVIEW [E.I.P.R.] 441 (2012)
- Burley, Justine, *An Abstract Approach to the Regulation of Human Genetics: Law, morality and Social Policy* in THE REGULATORY CHALLENGE OF BIOTECHNOLOGY, BIOTECHNOLOGY REGULATION SERIES 86 (Han Somsen ed., Edward Elgar Publishing 2007)
- Byrne, J.A et al. *Producing Primate Embryonic Stem Cells by Somatic Cell Nuclear Transfer*, 450 NATURE, 497, 497 (2007)
- Ding, Sheng & Schultz, Peter G., *A Role for Chemistry in Stem Cell Biology*, 22 NATURE BIOTECH. 833,839 (2004)
- Egerer, Peter *Who in Our Society Should Take on the Responsibility of Deciding What Is Ethically or Morally Just, and What Are the Criteria Upon Which Decisions Should Be Based*, in EPOSIUM 1992 GENETIC ENGINEERING -THE NEW CHALLENGE 332(Cookson et al.eds., European Patent Office, 1993)
- Elstner, A. et al., *The Changing Landscape of European and International Regulation on Embryonic Stem Cell Research*, 2 STEM CELL RESEARCH 101,104-105 (2009)
- Gambari, Roberto & Finotti, Alessia, *Bioethics and Freedom of Scientific Research in Gene Therapy and Stem Cell Biology*, in BIOTECH INNOVATION and FUNDAMENTAL RIGHTS 120 (Bin et al. eds, Springer 2012)
- Goldman, Steve, *Stem and Progenitor Cell-Based Therapy of the Human Central Nervous System*, 23 NATURE BIOTECH. 862, 867 (2005)
- Grund, Martin & Farmer, Stacey J., *Brüstle v. Greenpeace: The End of Road for Human Embryonic Stem Cell Patents*, 12 BIO-SCIENCE L. REV. 44, (2011)
- Isasi, Rosario M.& Knoppers, Bartha M., *Towards Commonality? Policy Approaches to Human Embryonic Stem Cell Research in Europe*, in EMBRYONIC STEM CELL PATENTS (Aurora Plomer&Paul Torremans, eds., Oxford University Press, 2009)
- Karet, Bryan, *Moral Dilemmas in the History of Patent Legislation*, in EPOSIUM 1992 GENETIC ENGINEERING -THE NEW CHALLENGE(Cookson et al.eds., European Patent Office, 1993)
- Liddell, Kathleen, *Immortality and Patents: The Exclusion of Inventions Contrary to Ordre Public and Morality* in NEW FRONTIERS IN THE PHILOSOPHY OF INTELLECTUAL PROPERTY 140, 168 (Annabelle Lever, ed., Cambridge University Press, 2012)

List of Works Cited

- Machlup, Fritz, *An Economic Review of the Patent System*, 15 Study of the Subcommittee on Patents, Trademarks, and Copyrights of the Committee on the Judiciary United States Senate 23 (1958)
- Manninen, Bertha Alvarez, *Are Human Embryos Kantian Persons?: Kantian Considerations in favor of Embryonic Stem Cell Research*, 3 PHIL. ETHICS and HUMAN in MED 4 (BioMed Central, 2008), available at <http://www.peh-med.com/content/3/1/4> (last visited 18.7.2012)
- Moufang, Rainer, *Patenting of Human Genes, Cells and Parts of the Body? – The Ethical Dimensions of Patent Law*, 4 IIC 487 at 503, (1994)
- Nielsen, T.Hviid, *What Happened to the Stem Cells?*, 34 J. MED. ETHICS 852, 853 (2008)
- Oduncu, Fuat S., *Stem Cell Research in Germany: Ethics of Healing vs. Human Dignity*, MED., HEALTH CARE AND PHIL. 5, 12 (2003)
- Plomer, Aurora, *After Brüstle: EU Accession to the ECHR and the Future of European Patent Law*, 2 QUEEN MARY JOURNAL OF INTELLECTUAL PROPERTY 110, 125 (2012)
- Plomer&Torremans, *Towards Systemic Legal Conflict: Article 6(2)(c) of the EU Directive on Biotechnological Inventions*, in EMBRYONIC STEM CELL PATENTS (Aurora Plomer&Paul Torremans, eds., Oxford University Press, 2009)
- Porter, Gerard, *The Drafting History of The European Biotechnology Directive*, in EMBRYONIC STEM CELL PATENTS 10 (Aurora Plomer&Paul Torremans, eds., Oxford University Press, 2009)
- Porter, Gerard, *Human Embryos, Patents, And Global Trade: Assessing the Scope and Contents of the TRIPS Morality Exception*, EMBRYONIC STEM CELL PATENTS (Aurora Plomer&Paul Torremans, eds., Oxford University Press, 2009)
- Resnik, David, *Embryonic Stem Cell Patents and Human Dignity*, 15(3) HEALTH CARE ANAL., 211, 215 (2007)
- Shell, Susan M., *Kant's Concept of Human Dignity as a Resource for Bioethics*, in HUMAN DIGNITY and BIOETHICS: ESSAYS COMMISSIONED by the PRESIDENT'S COUNCIL ON BIOETHICS, 334 (The President's Council on Bioethics, 2008)
- Shevde, Nirupama, *Flexible Friends*, 483 NATURE, S23 (2012)
- Solanki, Gurpreet, *Preliminary Ruling of the Court of Justice of the European Union in Oliver Brüstle v. Greenpeace e.V.: Impacts on Patenting of Human Embryonic Stem Cells in Europe*, 2 BIOTECH. L. REP. 135, (2012)
- Sterckx, Sigrid & Cockbain, Julian, *Assessing the Morality of the Commercial Exploitation of Inventions Concerning Uses of Human Embryos and The Relevance of Moral Complicity: Comments on the EPO's WARF Decision*, 7 SCRIPTed 83, 94 (2010) available at <http://www.law.ed.ac.uk/ahrc/script-ed/vol7-1/sterckx.pdf> (last visited 9.8.2012)
- Steinbock, Bonnie, *Moral Status, Moral Value, and Human Embryos: Implications for Stem Cell Research* in THE OXFORD HANDBOOK OF BIOETHICS 416,421 (Bonnie Steinbock ed., Oxford University Press 2007)
- Straus, Joseph, *Patenting Human Genes and Living Organisms – The Legal Situation in Europe*, in PATENTING OF HUMAN GENES and LIVING ORGANISMS (F. Vogel & R.Grunwald, eds. Springer 1994)

- Straus, Joseph, *Biotechnology and Patents*, 54 CHIMIA 294 (2000)
- Straus, Joseph *Intellectual Property Rights: Ethical Aspects*, 11 INTERNATIONAL ENCYCLOPEDIA OF THE SOCIAL & BEHAVIORAL SCIENCES, 7621 (Neil J. Smelser & Paul B. Baltes eds., Elsevier, 2001)
- Straus, Joseph, *Implications of the TRIPs Agreement in the Field of Patent Law*, in FROM GATT TO TRIPS THE AGREEMENT ON TRADE RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS 160, 180 (Friedrich-Karl Beier & Gerhard Scriver eds., VCH, 1996)
- Torremans, Paul, *Legal Problems Raised by Patents on Human Stem Cell-Based Inventions*, in TRANSLATIONAL STEM CELL RESEARCH, STEM CELL BIOLOGY AND REGENERATIVE MEDICINE 287, 305 (K. Hug & G. Hermerén, eds., Humana Press, 2011)
- Torremans, Paul, *The Construction of The Directive's Moral Exclusions under the EPC*, EMBRYONIC STEM CELL PATENTS (Aurora Plomer & Paul Torremans, eds., Oxford University Press, 2009)
- Treichel, Pierre, *G 2/06 and the Verdict of Immorality*, 4 IIC 450, 459 (2009).
- Vrtovec, Katja Triller & Scott Christopher Thomas, *The European Court of Justice Ruling in Brüstle v. Greenpeace: The Impacts on Patenting of Human Induced Pluripotent Stem Cells in Europe*, 9 CELL STEM CELL 502, 503 (2011).
- Warren-Jones, Amanda, *Finding a "Common Morality Codex" for Biotech – A Question of Substance*, 6 INTERNATIONAL REVIEW OF INTELLECTUAL PROPERTY AND COMPETITION LAW [IIC] 644 (2008)
- Warren-Jones, Amanda, *Vital Parameters for Patent Morality- A Question of Form*, 2 J. INTEL. PROP. L & PRAC. 832, 835 (Oxford University Press, 2007)
- Yamanaka, Shinya, *Induced Pluripotent Stem Cells: Past, Present, and Future*, 10 CELL STEM CELL 678, 678 (2012)
- Zimmerli, Walther Christoph, *Discussion Session Comment* in PATENTING OF HUMAN GENES AND LIVING ORGANISMS 148, 148 (F. Vogel & R. Grunwald, eds. Springer 1994)

Monographies

- Budinger, Thomas F. & Budinger, Miriam D., *Ethics of Emerging Technologies*, 342 (John Wiley & Sons, 2006)
- Cornish, W. et al., *Intellectual Property: Patents, Copyright, Trade Marks and Allied Rights* ¶21-24 at 946 (Sweet & Maxwell, 7.ed, 2010) (1981)
- Pires de Carvalho, Nuno, *The Trips Regime of Patent Rights*, 298 (Kluwer Law International, 2010)
- Singer, Margarate & Stauder, Dieter, *European Patent Convention- A Commentary* (3rd edition, Carl Heymanns 2003).
- United Nations Conference on Trade and Development-The Information and Communication Services Division, *Resource Book on TRIPS and Development* 376 (Cambridge University Press 2005)

List of Works Cited

International Treaties

- Agreement on Trade Related Aspects of Intellectual Property, Apr. 15, 1994
Convention on the Grant of European Patents ratified, Oct. 5, 1973, revised Dec. 13, 2007
EPO Notice Concerning the Amendment of the Implementing Regulations to the European Patent Convention, 8-9/1999 O.J EPO, ¶1, at 573
European Convention of Human Rights [ECHR], Sep 3, 1953 (Council of Europe)
Vienna Convention on the Law of Treaties, May 23, 1969

European Union Legislative Sources

- Council Directive 98/44 Directive, recital 1, 1998 O.J. (L 213) (EC)
European Parliament Resolution on *Patents for Biotechnological Inventions*, P6_TA(2005)0407, ¶I, Oct. 26, 2005

Cases

- Bundespatentgericht [BPatG] [Federal Court for Patent Matters], Dec. 5, 2006, 3 Ni 42/04 Entscheidungen des Bundespatentgerichts (F.R.G)
Bundesgerichtshof [BGH] [Federal Court of Justice] Dec. 17, 2009, Case No: Xa ZR 58/07, (Christopher Heath (trans.), 7 IIC at 853 (2010).
Bundesgerichtshof [BGH] [Federal Court of Justice] Nov. 27, 2012, Case No: X ZR 58/07, available at <http://juris.bundesgerichtshof.de> (last visited Nov. 11, 2013)
C-377/98, Netherlands v. Parliament and Council 2001 ECJ CURIA, ¶38 (Oct. 10, 2001)
C-456/03, Commission v. Italy, 2005 ECJ CURIA, ¶78 (June 16, 2005)
C-34/10, Oliver Brüstle v. Greenpeace e.V., Court of Justice of the European Union, [CJEU], 2011 CURIA (Oct. 18, 2011)
Diamond v. Chakrabarty, 447 U.S. 303, 317 (1980)
Greenpeace UK v. Plant Genetic Systems N.V., Opposition Division Decision EPO, (1992) 24 IIC, 618
International Stem Cell Corporation v. Comptroller General of Patents [2013] EWCH 807 (Ch). available at <http://bailii.org>
Onco-mouse/HARVARD, Decision of the Opposition Division, Nov. 07, 2001, O.J EPO, 10/2003
T 19/90, Onco-mouse/HARVARD, O.J EPO 12/1990 (Technical Board of Appeal of EPO)
T 0356/93, Plant Cells / PLANT GENETIC SYSTEMS, EPO O.J.1995, 511 (Technical Board of Appeal of EPO)
T 1374/04, Stem cells/ WARF, Apr. 07, 2006, EPO OJ 5/2007G 2/06, Use of embryos/ WARF, Nov. 25, 2008, EPO OJ 5/2009 (Technical Board of Appeal of EPO)

Reports, Opinions and Discussion Papers

- Australian Government National Health and Medical Research Council, *Human Embryo, – A Biological Definition* (Discussion Paper) available at http://www.nhmrc.gov.au/_files_nhmrc/file/research/embryos/reports/humanembryo.pdf (last visited 8.8.2012)

- A. Plomer et al., *Stem Cell Patents: European Patent Law and Ethics Report 78* (European Commission, 2006), 78. available at <http://www.nottingham.ac.uk/~llzwww/Stem-CellProject/project.report.pdf> (last visited 1.8.2012)
- Opinion of the European Group on Ethics in Science and New Technologies to the European Commission 16, *Ethical Aspects of Patenting Inventions Involving Human Stem Cells*, § 2.3, May 7, 2002 available at http://ec.europa.eu/bepa/european-group-ethics/docs/avis16_complet_en.pdf (last visited Aug. 05, 2012)
- Opinion of Advocate General Bot, Case 34/10 Oliver Brüstle v. Greenpeace eV. CJEU Mar. 10, 2011
- Report on the Protection of the Human Embryo in vitro, Steering Committee on Bioethics, CDBI-CO-GT3 (Council of Europe, June 19, 2003) at 37 available at [http://www.coe.int/t/dg3/healthbioethic/texts_and_documents/CDBI-CO-GT3\(2003\)13E.pdf](http://www.coe.int/t/dg3/healthbioethic/texts_and_documents/CDBI-CO-GT3(2003)13E.pdf) (last visited 2.8.2012)
- Member of European Parliament (Rothley), Report on the Proposal for a European Parliament and Council Directive on the Legal Protection of Biotechnological Inventions, COM/95/0661, June 25, 1997 available at <http://www.europarl.europa.eu>
- UK IPO, *Practice Notice, Inventions Involving Human Embryonic Stem Cells*, Feb. 3, 2009, <http://www.ipo.gov.uk/pro-types/pro-patent/p-law/p-pn/p-pn-stemcells-20090203.htm>
- UK IPO, *Practice Notice, Inventions Involving Human Embryonic Stem Cells*, May 17 2012, <http://www.ipo.gov.uk/pro-types/pro-patent/p-law/p-pn/p-pn-stemcells-20120517.htm> (last visited 10.8.2012)

Fact Sheets

- California Institute for Regenerative Medicine, Stem Cell Definitions, http://www.cirm.ca.gov/StemCellBasics_Definitions#2 (last visited Aug. 11, 2012)
- Euro Stem Cell, *FAQ about Stem Cells and Regenerative Medicine*, available at <http://www.eurostemcell.org/stem-cell-faq/introduction-stem-cells#t14n43> (last visited Aug 11, 2012)
- Modern Biotechnology and the OECD, OECD Policy Brief at 1 (1999) available at <http://www.oecd.org/science/biotech/1890904.pdf> (last visited Nov. 08, 2013)
- Reproductive Genetics Institute website available at http://reproductivegenetics.com/frozen_embryo.html (last visited 23.7.2012)
- The Nat'l. Inst. of Health, *Stem Cells Basics, Resource for stem cell research*, www.stem-cells.nih.gov (last visited Aug. 11, 2012)

News

- BBC News Health*, available at <http://www.bbc.co.uk/news/health-15181015> (last visited Aug. 28, 2012)
- Stem Cell Treatment Helps Heal Stroke Victims*, THE TELEGRAPH, June 15, 2012 available at <http://www.telegraph.co.uk/archive/2012-6-15.html> (last visited Sep 2, 2012)
- Renewed Vigour*, 486 NATURE 293 (2012)
- Dismay, Confusion Greet Human Stem Cell Patent Ban*, 334 SCIENCE (2011)

List of Works Cited

Dictionaries

The Oxford English Dictionary 421 (2nd ed. 1989)

MIPLC Class Materials

Prof. Joseph Straus, Protection of Biotechnological Inventions (June 5-6, 2012), (unpublished slides used in summer term class of the Munich Intellectual Property Law Center)

Prof. Margo Bagley, Biotechnology and IP course slides at Munich Intellectual Property Law Center on June 22, 2012