

January 26, 1977

Dr. Alain Rambach  
Institut Pasteur  
Paris 15<sup>e</sup>, France

Dear Alain,

Enclosed are copies of some of the ~~memoranda~~ memoranda and letters dealing with the patent issue at Stanford. Although I have no concern with your reading them or even showing them to others, I would appreciate it if you would not quote them publicly without asking me or the author of the document.

Let me add a few points in addition:

1. The patent application was filed on November 4, 1974, or nearly seven months after drafting (April 1974) and four months after publishing (July 1974) the "moratorium" letter. It is an outright lie to imply (as Kourilsky did) that the people who thought of and drafted the "moratorium" letter knew about the patent discussions or intention.
2. As I understand the chronology, the Stanford patent application was based on the paper by Cohen and Boyer in November 1973 reporting the construction and transfection of recombinant bacterial plasmids. Then after the Morrow et al. work, Cohen was approached by the patent officer attorney during the summer (after the letter was published). Presumably Boyer was involved about the same time.
3. I and the other people who proposed and drafted the letter were unaware of any patent application. I was the first of the group to learn of it—a week or two before the Asilomar meeting (February 1975). I objected to the application and have opposed it ever since.
4. The letter did not ask any scientists or countries to stop recombinant DNA research. It proposed deferring two types of experiments only. Other experiments were left open for individual decision. The development of vectors or the cloning of lower eukaryote segments were never identified as dangerous. Consequently it is misleading to say that the moratorium stopped others from doing this work and left Stanford people free to continue. What gave Stanford scientists the advantage they had was that they were so far ahead of the rest of the world in this field.

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5. No research (bacterial or phage strains or method) carried on between the publication (or drafting) of the "moratorium" letter and the Asilomar conference (or since) is the basis of any patent application. In fact, neither the Grunstein method nor any Davis lambda strain, which were developed after the letter, is the subject of any patent. Also, no work since is the subject of a patent. So much for another of Kourilsky's misrepresentations.

6. As the Nature article points out, the patent does not prevent any research, exchange of strains etc. Another of Kourilsky's misleading statements exploded.

My conscience is clear and my views about patents are on the record. I, personally, don't support the patent application but I don't think it's illegal or immoral. I can understand why the French and possibly the Pasteur Institute might have their prided wounded and even feel that their opportunity to make money from their research in this field might be compromised. Very likely, if this work had been done at the Pasteur, there would have been a host of patents to ensure that it's money making abilities were ensured. It's easy for Kourilsky to be cynical and critical but it sounds like sour grapes to me; either that or some other Machiavellian reason.

With best regards,  
Sincerely,

PB:af  
Enclosures