

Protocol 1277 Informed consent statement for Oral History Interviews

(This form can be sent in advance and signed or read into the tape at the beginning of the interview.)

The interview will be recorded, and I will use the audio file to make a transcript. The transcript will be shared with you, with an opportunity to correct it. The attached form indicates options for making the final edited transcript available.

My name is Ashley Gartin and I am a student at Duke University. I am in a course on the history of genomics that includes oral history. One goal is to produce a written transcript of interviews with important figures in genomics. Some of the interviews may be archived or made public through a website. The conditions for making the transcripts public (the audio tapes will not be public) are indicated in the accompanying form, and you can choose any of those options, or write in your own conditions.

I selected you as the person I would like to interview. The interview should last 30-45 minutes. Your participation in this interview is strictly voluntary, and you may withdraw at any time. You do not have to answer every question asked. The information that you choose to share publicly will be "on the record" and may be attributed to you, unless use is restricted the conditions you specify on the form.

This interview is being recorded and I may take notes during the interview. The interviews that are posted publicly will be archived as a history resource. If you prefer that the interview be used only for the course and not made public, please indicate this on the form.

One risk of this study is that you may disclose information that later could be requested for legal proceedings. Or you may say something that embarrasses you or offends someone else when they read it on a public website. The benefit of participating in this study is ensuring that your side of the story is properly portrayed in the history of genomics.

Signed: James D. Wade Date: 21 November 2022

Person interviewed: James Wade Student Interviewer Ashley Gartin
(Print clearly) (Print clearly)

Use of archived final transcript

Members of the Duke University community, students, faculty and staff at other institutions, or members of the general public may access the digital archives. Typical research uses of interview materials include scholarly or other publications, presentations, exhibits, class projects, or websites. However there may be other uses made as well, since the materials will be available to the general public. Investigative reporters and lawyers engaged in or contemplating litigation have, for example, used the Human Genome Archive.

Your permission to post the edited, written transcript of your interview, and any related documents, to a digital archive is completely voluntary. Unless you consent to their wider use, all materials from your interview will be available only to members of the research team affiliated with this project.

The form below provides you with different options for how, when, and with whom your interview materials will be shared.

(A) I place **no restrictions** on my interview materials.

OR

(B) My interview materials may be reviewed, used, and quoted by students and researchers affiliated with Duke University; *and in addition* (check all that apply):

Researchers unaffiliated with the Center for Public Genomics may **read** the interview transcript and any related documents only after obtaining my permission.

Researchers unaffiliated with the Center for Public Genomics may **quote** from the interview only after obtaining my permission.

Researchers unaffiliated with the Center for Public Genomics **DO NOT HAVE** my permission to **read or quote** from the interview.

Posting interview materials to public digital archives: In spite of any restrictions listed above, I give permission for my interview materials to be made publicly available on the Internet by deposit in an institutionally affiliated archive:

1 year from the date of this form

5 years from the date of this form

10 years from the date of this form

25 years from the date of this form

After my death

Other: _____ (please specify a date or condition)

Signature: James D. We

Date: 21 Nov 2012

James Watson Interview Transcript
11/21/2012

Question 1: One of your first actions as director of the NIH's human genome program was to start a working group on ethical, legal, and social implications of the Human Genome Project. What were you thinking about at the time? Did you have any idea that gene patenting would become such a big issue?

JDW: . . . So it probably was late in September in 1988. Because genetics was always controversial, I thought, "You know, if we establish an ethics program, then we can't be criticized for not knowing if it has relevance to human life." So it was sort of a preemptive thing; I hadn't talked it over with people. I didn't have in mind anyone who would direct it, but there were various problems such as . . . Well, that could be where Nancy Wexler, who, as you know, is [inaudible]. You know, I made her chairman of the committee. [Inaudible.] A real ethical dilemma.

AKG: Right.

Question 2: Was Craig Venter's expressed sequence tag work at NIH your first up-close experience with gene patenting? Had you ever dealt with the issue before? Did you have to make decisions about patents as the director of Cold Spring Harbor Labs?

JDW: So, and the second was the Venter . . . my first close experience with gene patenting (reading). Probably was, but I'm trying to . . . Yeah, my memory is not now good enough, and I don't think I ever made any decision as to patents as the Director of Cold Spring Harbor Labs. We started an effort to clone tissue plasminogen activator, and we were in a race with Genentech, who won by a week. And we had decided to join forces with the Genetics Institute. And so, if the patent had been filed . . . this was in '85 or '86; I'm not sure. Eventually what we did is we basically joined with Wellcome in a case in the High Courts of England, which we actually did win. But we didn't win in the United States [courts], which said that you can't patent just expressed sequences. So, my belief from the very beginning was you shouldn't be able to [patent genes]. Patenting genes was just going to slow down science and increase the cost of medicine. The other argument is that people will never make the investment unless they're protected by a patent. But I don't want to get into that.

AKG: Okay.

JDW: So, and Craig's thing wasn't the first. The first was one where we had been involved in trying to make a . . . It's so long ago I can't really decide what things we would've patented. But I didn't like patenting genes. You know, I just thought they're out there in nature, and it (patenting) was going to be an arbitrary decision, and would increase or decrease the rates at which drugs became available. My impression is that it slowed it down. Instead of twenty people trying to make a drug, you've ended up with one or two people or companies for twenty years.

AKG: Right. I understand.

Question 3: In your amicus brief regarding the BRCA case, you state that the unique information-conveying nature of the human gene renders it unpatentable. Can you elaborate on your feelings about this? What about the genes of other organisms?

JDW: Your third question is about the BRCA case, which is, you know, a recent one.

AKG: Yes, sir.

JDW: I just don't like patents.

Question 4: Would you consider your ideas on gene patenting to be typical of those expressed by academic scientists, or are you in the minority?

JDW: And question four, do I think that it's typical . . . I think it would've been typical way back in the '80s. Since then, so many people have gotten used to taking out patents that I wouldn't want to say what was the majority view, but since most people don't own patents, they're probably against them. It's only those with the vested interest. There will always be a few, you know, academic-type people who say that patents inherently are good because they speed up the development of innovations. So, when we got down to the cloning the TPA gene, it seemed obvious; there was no innovation, and so why should you get a patent for doing the obvious?

AKG: Right. Now, I wanted to ask: did you feel like, since you did write the amicus brief to the court on the BRCA case, are you more interested in this case than other cases because it is about cancer, and you have an interest in cancer, or is it just that you don't like patents in general?

JDW: Yeah, I would say anything with important implications [inaudible]. It wasn't because it was cancer per se. But, you know, breast cancer is a very prominent feature in human life, so obviously it's more important than something which is rarer. I think that the big thing now is that the patent system has produced a cost of medicine that I think the world can't afford. So what do you do? Now, some countries, they say, "Forget the patents." They don't pay any attention to them. And then in others, depending on the nature of the country, first they'll be against patents, but then if they have some they'll want to protect them. Right now it's not high on my way of thinking. The only thing I'm concerned with is, can we stop cancer. (Returning to question 2) But you know, the Venter thing: the history of it was . . . there was a man; he was a lawyer at NIH. And he was the one who had the argument it (the expressed sequence tags) should be patented. And then Bernadine Healy, [inaudible]. And you know, I was [inaudible]. But I was in the process of being fired. But I don't think I was really fired because of the patent issue. Bernadine and I just didn't like each other. It predated the patent. [Inaudible]. And it turned out that most people who've had close contact with Bernadine can't stand her, so you know, it's not that I'm unusual [inaudible]. She was a talented, bright woman who tried to be important at a time when [inaudible] wasn't letting women be important. So I think she probably correctly felt discriminated against. So, she wasn't an evil woman or anything like that. And she lived a long while with her cancer. She died, I think it was just a year ago. Or less than that.

AKG: I see. So you think that you were asked to resign just because she didn't particularly get along with you? You think that was the biggest factor?

JDW: No, we had had a disagreement, and I had said something uncalled for about her, when she was running the White House technology program before she got to NIH. I certainly made a remark about it at a small, what I thought closed, meeting at Stanford, and then it got in Science magazine. And I'd have to look it up as to what I—

AKG: I can't recall, but I do remember reading—

JDW: --over what issue it was that I was disagreeing with her. But, it could have been patents, but I don't think so. It was, you know, around 1989 or something like that.

Question 5: In this year's Court of Appeals ruling on the BRCA case, Judge Moore wrote in her concurring opinion that, "In principle, a polymeric DNA sequence is no different than any other well known polymer, for example, nylon." How do you feel about that statement?

AKG: Okay, so I wanted to ask about question 5, the one where it's about what Judge Moore said in her concurring opinion. She stated that, "In principle, a polymeric DNA sequence is no different from any other well-known polymer, like nylon."

JDW: No, I wouldn't say that. One is the result of evolution.

AKG: Okay, so you don't agree with that statement then?

JDW: No, I don't agree. It sounds like she was in favor of patents on DNA? Because the majority [was in favor]; was she in the majority or the minority? It was a 2-to-1 vote?

AKG: She was in the majority.

JDW: Yeah. Okay. So she was in favor of patenting. [Inaudible] so we should patent them. But, you know, polyethylene was a human product and the other was the product of human evolution.

AKG: Okay, so you don't think that—

JDW: I don't think there's any absolute truth on one side or the other. I've always looked at what would be the best thing for the good of the people. You know, if patents make medicine expensive and people don't have [medicine], then I'd say they're (patents are) bad. And you could say, "If patents reward people for knowing the BRCA gene is interesting, and speeds up science," [then] you could say [inaudible] you could clone it (the gene). But we said there was just no reason that an ordinary person couldn't have done this (clone the TPA gene) so was nothing really inventive. It was '86, a long, long time ago.

Question 6: What do you think is eventually going to happen with gene patenting, both in the BRCA case and in the future?

AKG: Okay, so what do you think is going to happen with the BRCA case? Do you think it's going to go to the Supreme Court and get overturned, so that they can't patent it?

JDW: I don't think so; I think they'll let it stand.

AKG: You think they'll let it stand?

JDW: But I don't know.

AKG: Right. Why do you think they would let it stand?

JDW: Oh, because it sounds pro-business, and you've got the pro-business as a majority. Yeah, superficially you could say, "Oh, it promotes bright people and innovation and rewards them."

AKG: Right. Do you think that sort of idea will continue to be held by the Court?

JDW: Another question is, what is the innovation and how original do you have to be? You know, if you do something obvious, should you get a patent?

AKG: I don't suppose so.

JDW: I don't know the history of patents, that's why I'm not able to help you very much.

AKG: Oh no, you've been a huge help. No, this is great.

JDW: Okay.

AKG: That is the end of my questions, but I wanted to ask if you had a chance to look at the paper setting the conditions for the use of the transcript here?

JDW: Did you send me something?

AKG: Yes sir, I did. I sent it along with the questions, but you may not have had a chance to look at it.

JDW: Yes. And so it's something you want me to sign—

AKG: Yeah. If you could sign and send it back to me that would be great, but if you would prefer, you can just give me your verbal consent now and I'll have it on tape then so that you won't have to send it back.

JDW: Okay, I'll sign it and send it back to you.

AKG: Okay, that sounds great—

JDW: Okay.

AKG: Alright?

JDW: Fine. Alright, bye.

AKG: Bye-bye.