

KANYA HIRUNWATTANAPONG : CONSIDERATIONS ON THE LEGAL PROTECTION OF RIGHTS IN RELATION TO BIOTECHNOLOGY IN THAILAND. THESIS ADVISOR : ASSO. PROF. SURAKIAT SATHIRATHAI, Ph.D., LECT.SUDHAM UNAIDHAM, 287 pp. ISBN 974-579-370-1

This thesis investigates the various considerations affecting the legal protection of biotechnology in Thailand by examining the nature of the problem; by providing a critique of the case of the US, which has the widest patent protection of biotechnology; and by challenging the expediency of the US court's decision to bring biotechnology within the ambit of patent law.

The problems and unsuitableness of patent law in this regard are the results of the oversight of its assumptions : patent protection, with its economic interests, is important in the application of scientific discoveries, but ought not to be used as a means of encouraging advancement in biotechnology; for according to the philosopher of science, Sir Karl Popper, "... science begins with problems and ends with problems", and patent protection is entirely unsuitable in this field.

Substantive patent law and its assumptions are themselves unequal to the task of dealing with the unique problems arising out of biotechnology. The US court's decision to grant protection of biotechnology under patent law is no more than an adaptation of the law and a wide interpretation of US Congress's intention, while denying certain vital considerations, eg. the life-possessing quality of biotechnology, its effect on society and on the environment. Moreover, it is a precedent for broadening the scope of patent law to include higher life forms within its ambit.

Patent law is merely a contrivance for the protection of economic interests and for the economic exploitation by leaders in biotechnology, because by its very nature biotechnology is a natural monopoly requiring vast amount of time and sums of money which make competition virtually impossible. Furthermore, according to the scientific norm, the inspiration to undertake research and development does not come from patent law.

Therefore, legal protection must be by a system other than patent law and must allow, first, for the unique animate nature of biotechnology ; secondly, for its effect on society and the environment; thirdly, for the reward of the researcher and developer; and, finally, the legal protection must not be under a law whose primary aim is economic self-interest.