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WARF stem cell patent upheld; fight to continue

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Two consumer groups said Thursday that they intend to continue challenging three key human embryonic stem cell patents held by the **Wisconsin Alumni Research Foundation** after the **U.S. Patent and Trademark Office** upheld the validity of one of the disputed patents.

In issuing its decision, the patent office rejected the arguments by the groups, finding that the expert declarations they submitted were "flawed by hindsight reasoning." The groups had argued that the work done by **University of Wisconsin** researcher James Thomson to isolate stem cell lines was obvious in the light of previous scientific research, making his work unpatentable.

The three patents were challenged through reexamination proceedings initiated in October 2006 at the request of New York-based **Public Patent Foundation** and the California-based Foundation for Taxpayer and Consumer Rights.

In March 2007, the patent office threw out the three broad patents relating to embryonic stem cells following the groups' challenge. The groups said the three WARF patents were "impeding scientific progress and driving vital stem cell research overseas."

In May, the Wisconsin Alumni Research Foundation, the patent and technology licensing arm of the University of Wisconsin-Madison, filed with the U.S. Patent and Trademark Office a **lengthy defense** of three key stem cell patents. Decisions in the reexaminations of the other two patents are still pending.

In a joint press release, the two consumer groups said the patent office's decision was a "non-final office decision" and that the groups would appeal any later final decisions supporting the patent claims to the patent office's Board of Appeals. They also said they would be willing to appeal any board decision to federal court.