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Evaluating the Case Against Pet Cloning

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Evaluating the Case Against Pet Cloning

Abstract
The cause that opponents of pet cloning support is indisputably a worthy one: namely, the protection of animal welfare. And because this type of animal cloning appears, at least at first glance, to have no noble ends, the public and most animal ethicists have been content to let the cause, rather than the arguments, carry the day. There is an overwhelmingly negative view of companion animal cloning among the lay public, animal advocacy organizations, and professional ethicists. But how sound are their arguments against pet cloning? Can they withstand careful scrutiny?

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BIOTECH BRIEFING

Newsletter of the Biotechnology Committee

AMERICAN BAR ASSOCIATION • SECTION OF SCIENCE & TECHNOLOGY LAW

Volume 2 Number 2

- Determine whether licenses are required for exports of product, spares, software, or technical data – identify countries for which licenses are required – ensure processes in place to prevent exports/transfers without appropriate authorizations.
- Ensure the global engineering enterprise is aware of applicable trade controls, both dual-use and sanctions. Ensure processes are in place to prevent transfers of technical data without appropriate authorizations.
- Ensure the global sourcing enterprise (supply chain) is aware of applicable trade controls, both dual-use and sanctions. Ensure processes are in place to prevent transfers of technical data without appropriate authorizations.
- If business has controlled technical data, coordinate with HR to identify all employees who are not either U.S. nationals or permanent resident aliens; ensure processes are in place to prevent transfers of or access to technical data within the U.S. without appropriate authorizations.
- Implement foreign visitors control program.
- Ensure all servers with trade controlled technical data are appropriately protected – file protection, system administrators are U.S. nationals, and all technical support/service is performed by U.S. nationals.
- Review all business operating processes and procedures for involvement of U.S. persons in transactions involving embargoed destinations.
- Ensure Internet marketing channel appropriately protected – screen all users at the transaction level and limit use of wizards or other technical services without appropriate screening.
- Ensure subsidiaries in Canada, the EU, and Mexico have mechanisms in place to address local blocking statutes.
- Conduct comprehensive compliance audit of all new acquisitions within 30 days of closing.
- Monitor changes to regulations and keep processes current.
- Review all business transaction documentation associated with government procurement at time of receipt for compliance with U.S. anti-boycott regulations.

The process of developing and managing an effective internal controls program can be challenging and expensive. In assessing the value of such an investment, however, corporate management needs to consider a number of related factors:

1) The cost of internal investigations of alleged violations can easily exceed any potential monetary fines, sometimes by several orders of magnitude;
2) The tort exposure from the failure to identify a problem customer (e.g., one with terrorist connections that appears on a published government list) could be almost unlimited; and
3) The reputational risk associated with any alleged violation could be significant; these regulations are maintained to protect U.S. national security and they are increasingly seen as a major tool in its war against terrorism.

Bill Clements is a Partner in the Washington, DC office of Foley & Lardner LLP. He specializes in compliance issues related to U.S. international trade controls and the Foreign Corrupt Practices Act. He agreed to write this article as a follow-up to a presentation he made at the Biotechnology Committee's annual meeting in Chicago in August 2005.

Evaluating the Case Against Pet Cloning

Autumn Fiester, PHD

The cause that opponents of pet cloning support is indisputably a worthy one: namely, the protection of animal welfare. And because this type of animal cloning appears, at least at

first glance, to have no noble ends,[1] the public and most animal ethicists have been content to let the cause, rather than the arguments, carry the day. There is an overwhelmingly negative view of companion animal cloning among the lay public, animal advocacy organizations, and professional ethicists. But how sound are their arguments against pet cloning? Can they withstand careful scrutiny?

There are three ethical objections given by pet cloning opponents: 1) the plight of unwanted animals; 2) the exploitation of grieving clients; and 3) the suffering of the animals involved in the cloning process (the donors, the surrogates, and the clones). An analysis of the various arguments given by opponents of pet cloning shows, however, that only one argument can survive critical reflection, and that argument – the concern about the suffering of the actual clones – is the issue on which the moral justification of pet cloning hinges and around which the moral debate ought to be focused.

Let's start with the plight of unwanted animals. The US pet overpopulation problem has been cited repeatedly as a central objection to companion animal cloning. For example, the animal advocacy organization American Anti-Vivisection Society writes, "While pet cloning firms currently are charging customers up to $50,000 for a cloned cat and as much as $2,995 to 'bank' a dog's or cat's DNA for future cloning, millions of homeless animals of the same species are available in US shelters for a round $100, which is used to cover costs. However, most animals in shelters are euthanized for lack of adopting homes."[2] Says Humane Society President Wayne Pacelle, "The Humane Society of the United States opposes pet cloning because it is dangerous for the animals involved, it serves no compelling social purpose, and it threatens to add to the pet overpopulation problem. It doesn't sit well with us to create animals through such extreme and experimental means when there are so many animals desperate for homes."[3] Bioethicists agree. David Magnus, Director of the Stanford Center for Biomedical Ethics, argues, "The idea that somebody would spend $50,000 for a cat when they can go to any shelter and rescue one is absurd."[4]

What these arguments certainly get right is the staggering problem of unwanted animals in the United States. The National Council on Pet Population Study and Policy found that in 1997 alone, 2,329,978 dogs and 1,759,743 cats entered shelters, and between 50-70% of these animals were euthanized.[5] By ASPCA estimates, 8-12 millions companion animals enter shelters, and 60-70% are euthanized.[6] A similar number is cited in the 2001 Humane Society report on the state of animals in the US. According to that report, 4-6 million dogs and cats were euthanized in shelters in 2001.[7] These figures do not include the millions of stray animals in the country: the ASPCA estimates that 70 million stray dogs and cats live in the US.[8]

The connection between the pet overpopulation problem and pet cloning seems obvious: there are many wonderful pets ready to adopt, and adopting instead of cloning saves one animal from euthanasia; therefore, one ought to adopt rather than clone. When we add to that argument the fact that each cat clone currently costs $30,000, which – if redistributed – could save thousands of animal lives, we appear to come to the conclusion that the money ought to be donated to shelters rather than devoted to the purchase of just one animal. But there is a serious problem with this argument against companion animal cloning. If we interpret the

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[1] I have argued elsewhere about the potential benefits to companion animals in general. Fiester, "Creating Fido's Twin: Is There Moral Legitimacy in Pet Cloning?," Hastings Center Report, 35, No. 4, 2005, pp. 34-39.

[2] AAVS, Pet Cloning: Separating Facts from Fluff (February 16, 2005).

[3] HSUS, "Cat Cloning is Wrong-Headed States the Humane Society of the United States" (February 14,2002), available at: http://hsus.org/ace/13214.

[4] P. Fimrite, "Cat Has 10 Lives, Thanks to $50,000 Cloning," *San Francisco Chronicle* (December 23, 2004).

[5] National Council on Pet Population Study and Policy, "Shelters Statistics Survey," 1994-7, available at: http://www.petpopulation.org/statsurvey.html.

[6] ASPCA, "Annual Shelter Statistics," available at http://www.aspca.org.

[7] P.G. Irwin, "Overview: The State of Animals in 2001," in *The State of Animals 2001* (D.J. Salem and A.N. Rowan, eds) (Washington, DC: Humane Society Press, 2001).

[8] ASPCA, "Annual Shelter Statistics, " available at http://www.aspca.org.

above argument as the claim, "There are too many cats in the world, therefore we shouldn't be cloning more," then the flaw in the argument might be called the "Hangnail vs. Hemorrhage" problem. In terms of cat "production," cloning represents a tiny hangnail, while we're currently hemorrhaging to death from intentional and unintentional breeding. According to the Humane Society of United States, there are currently 77 million cats owned in US households, and only 11.5 million were adopted from shelters. [1] In other words, 66 million cats were either purchased from breeders or bred by owners (again, either because they wanted to breed their cats, or because they didn't spay or neuter them). To date: there have been 6 cats cloned. If there are too many cats in the world, and the quantity needs to be reduced to cure the unwanted animal problem, then we should focus on breeders and owners who don't spay. After we have made a significant impact on the main source of the problem, then we can focus on the trivial contributors to the companion animal numbers.

One additional irony of this argument against companion animal cloning is that the only firm currently cloning cats commercially buys its donor eggs in the form of ovaries that have been procured at spay clinics. The money that those spay clinics receive for the ovaries is used to spay other cats. So, at least while pet cloning production remains extremely low, a pet cloning firm that indirectly supports the spaying of cats from this method of egg procurement reduces the future pet population

The second objection to pet cloning fares no better, namely, the exploitation of grieving clients. On this argument, opponents argue that buying a clone necessarily means being deceived because without deceived clients there wouldn't be clients. The idea here is that it is irrational to want to have a later-born genetic twin of a beloved pet, and if a client had an accurate understanding of what cloning was, he or she wouldn't want one. For example, Lawrence Hinman, Director of the Values Institute, University of San Diego, argues, "We can produce a genetically identical copy of our pet, but we delude ourselves if we think we have somehow accomplished something by the substitution."[2] But this is not true. For pet owners, cloning a pet is an expression of profound grief and loss of intrinsically valuable entity; therefore, having the identical twin of beloved animal is closest they can come to having some part of that animal "live on." There is nothing irrational about this.

That leaves opponents with only one remaining objection: the suffering of animals involved in the process. But there are problems here as well. Opponents cite three groups of animals that suffer in the process of pet cloning: the donors, the surrogates, and the clones. But the only firm cloning pets to date uses eggs procured from spay clinics, so there is no suffering of the donors – their owners had their ovaries removed to prevent future pregnancies (a cause pet cloning opponents fully embrace), so no procedure was performed on these animals for the enterprise of pet cloning. As for the surrogates, again in current practice, they are adopted after one pregnancy, so their suffering is equivalent to what a human woman goes through in a successful cycle of in vitro, but then they are adopted into homes. This turns out to be, then, the equivalent of feline kidney transplant, to which no one seems to raise objections.

That leaves the health status of the clones, and here the opponents raise a serious moral issue. The public does not have access to the data about the number of stillbirths and early neonatal losses in this process, and there certainly are no long-term data on the health status and long-term outcomes for the actual clones. Here is where the opponents should focus their energy in making sure that these legitimate animal welfare concerns are addressed.

Dr. Fiester is a senior fellow at the University of Pennsylvania Center for Bioethics. She specializes in the ethics of animal cloning. She agreed to write this essay for the Biotechnology Committee as follow-up to the presentation she gave at a program on pet cloning sponsored by the Section of Science & Technology at the annual meeting in August 2005.

[1] HSUS, available at http://www.hsus.org.

[2] L.M. Hinman, "Rover is Not Replaceble – Forget Cloning," *Los Angeles Times* (August 28, 2004).