

The Daily Pennsylvanian

Former Penn employee sues Gene Therapy Program director, alleging 'unethical and illegal conduct'

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The Penn Gene Therapy Program is located on 125 S. 31st Street.

Credit: Chenyao Liu

A former Penn Gene Therapy Program employee filed a lawsuit against program director Jim Wilson and the University, alleging “unethical and illegal conduct” involving gene therapy technology that the employee invented while at Penn.

The **lawsuit** — which was filed by Susan Faust on Jan. 29 — alleges that the University concealed the existence of licensing agreements for Faust’s technology and retained royalty payments received under those agreements in violation of Penn’s patent policy. The lawsuit asserts that the University conducted itself “more like an illegal monopolist than a research institution.”

The lawsuit describes Wilson's ownership of companies that pay the University for access to GTP's technology as "untouchable" and Penn's "golden goose." Faust is requesting for the court to award her complete ownership of the patent covering the technology and compensation for Penn's conduct.

A University spokesperson said that they do not offer comment on pending litigation, and the lawyers representing the University declined to comment. Wilson also did not respond to a request for comment.

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Faust, who founded **NxGEN Vector Solutions** after leaving Penn, worked as a postdoctoral researcher at Penn's GTP from 2010-13. In a 2022 **interview** with The Daily Pennsylvanian, she contended that she was fired from the program after co-inventing a breakthrough **technology** that competed with technology used in Wilson's startups.

"UPenn, at the direction and under the control of Dr. Wilson, has engaged in a concerted effort to deprive Dr.

Faust of her life's work because it competes with technology developed and commercialized by Dr. Wilson, from which both Defendants derive significant profit annually," the lawsuit reads.

In 2013, Faust **collaborated** with Thomas Jefferson University researcher Joseph Rabinowitz to develop a virus vector technology to aid the delivery of gene therapies that treat skeletal muscle disease. The vectors they discovered are able to evade the immune system's response, which previously posed a barrier to the expression of the vector technology.

Penn's **patent policies** state that any person participating in research at Penn "irrevocably assigns all right, title and interest in and to inventions, together with associated materials, and patent applications" to the University.

The policy states that researchers must file invention disclosures for their inventions with The Penn Center for Innovation, which reviews the submission within 30 days to decide whether the University wishes to pursue a patent application on it. According to the patent policy, PCI will use "reasonable efforts to notify inventors of prospective licensees in an early stage of the negotiation process."

Penn entered into a licensing agreement with Biogen Inc. for 12 patents — including Faust's AAV vector technology — with a combined maximum value of \$2 billion, according to a Biogen **press release**. The lawsuit claims that Penn failed to notify Faust that her technology was being licensed and that the University forfeited the patent's international rights.

Biogen declined a request for comment.

The patent policy also requires that Penn pays the inventor of patented technology 30% of any compensation it receives from licensing agreements. However, Faust was the only inventor of the 12 technologies licensed to Biogen that was not compensated, according to the lawsuit.

"UPenn has used its money, army of attorneys, and other resources to withhold from Dr. Faust any information regarding UPenn licensing agreements that include her technology, entitling her to compensation," the lawsuit alleges.

While the lawsuit states that it is uncertain how many entities the University has licensed Faust's technology to, citing a "complete lack of transparency," it says that Faust has "independently gathered evidence indicating that UPenn has licensed her technology to multiple other third-parties."

Ross Wolfe, one of the attorneys representing Faust and an associate at Kang Haggerty LLC, described Penn's actions as surprising given the University's reputation in the field of biotechnology.

"Our client was just as surprised as other people were that a university with long-standing roots in this field would act this way toward her," Wolfe said.

He said that Faust believes that the University's misconduct regarding her patent is a result of her technology being a competitor of one of Wilson's patents. The lawsuit specifically cites Wilson's company, **RegenxBio**, which was founded on his NAV capsid platform technology that competes with Faust's AAV vector technology.

"They wanted to essentially bury it and make sure that it never was able to become commercialized by her," Wolfe contended.

Wolfe suggested that Faust created NxGEN in 2017 with the intent of commercializing her work. The lawsuit alleges that the University engaged in "anticompetitive conduct" to prevent this commercialization, intending to abandon her patent application, and currently is not licensing the patent nor in negotiations to license it — therefore receiving no revenue from it.

The patent policy states that — if the University does not wish to pursue a patent application or is abandoning it — the intellectual patent administrator may return the University's right to the invention to the inventor with the approval of the Vice Provost for Research.

Wolfe said that Faust offered the University 50% of all revenue that was received from the licensing from her company, an offer that Penn refused.

Faust was the only postdoctoral researcher at the time working in the GTP lab who was able to secure National Institutes of Health funding for her research, and also received the Sanjeev Kumar Excellence in Science award, which was awarded to one Penn postdoctoral researcher a year, according to the lawsuit. The lawsuit also states that Wilson told Faust that she was the "smartest post-doctoral [researcher]" with whom he has worked.

"All of a sudden, a month after coming up with [the AAV vector technology], she was told [by Wilson] that her contracts were not going to be renewed, which of course came as a surprise to her given no explanation for it," Wolfe said.

Afterwards, Faust became an intern with Penn's Center for Innovation licensing department, where she received an official offer for a promotion to an associate position, according to the lawsuit. However, after being informed that official employment offer needed to be approved by Wilson — citing his role as the PCI's largest client — her offer was rescinded, the lawsuit alleges.

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"It's hard to imagine that Dr. Wilson did not intervene and tell Penn to revoke the offer," Wolfe said.

Since filing the lawsuit, Wolfe said that they have received "nothing substantive" in response from Penn. The University has 60 days to respond to the complaint from the day it was filed.

"This is something she's worked for her entire life — not just at Penn, but before she even got to Penn," Wolfe said. "It has been a long journey for Dr. Faust, and she's ready for her day in court."

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