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US Supreme Court: Genes Cannot Be Patented Unless They Are Synthetic

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Occupy Corporatism

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The US Supreme Court ruled over Association for Molecular Pathology et al. v. Myriad Genetics unanimously deciding that naturally occurring DNA cannot be patented; however synthetic versions of DNA can.

Justice Clarence Thomas wrote that natural DNA is the "basic tools of scientific and technological work" and patenting them would "inhibit future innovation premised upon them.

Concerning synthetic DNA (cDNA), developed in laboratories by selecting specific sections of DNA constitutes a product and not found under naturally occurring circumstances.

cDNA is considered "distinct from the DNA from which it was derived."

For Myriad Genetics (MG) this decision means that cDNA which is used to create synthetic proteins (components of biological pharmaceuticals) in the process known as recombinant DNA.

Thomas pointed out that "Myriad did not create anything. To be sure, it found an important and useful gene, but separating that gene from its surrounding genetic material is not an act of invention."

Dr. Robert Darnell, president and scientific director of the New York Genome Center, explained that the Supreme Court's decision "sets a fair and level playing field for open and responsible use of genetic information. At the same time, it does not preclude the opportunity for innovation in the genetic world, and should be seen as an important clarifying moment for research and the healthcare industry."

MG released a statement regarding the decision: "Importantly, the Court noted that many of Myriad's unchallenged claims are method claims applying knowledge about the BRCA 1 and BRCA 2 genes. While these method claims were not at issue in this case, the Court highlighted Federal Circuit Judge Bryson's opinion that, '[a]s the first party with knowledge of the [BRCA1 and BRCA2] sequences, Myriad was in an excellent position to claim applications to that knowledge.

We believe the Court appropriately upheld our claims on cDNA, and underscored the patent eligibility of our method claims, ensuring strong intellectual property protection for our BRACAnalysis test moving forward,' said Peter D. Meldrum, president and CEO. 'More than 250,000 patients rely upon our BRACAnalysis test annually, and we remain focused on saving and improving peoples' lives and lowering overall healthcare costs.'"

Angelina Jolie became the spokesperson for genetic testing as a cancer identifier and subsequent double mastectomy to prevent developing the assumed genetic disease with the publishing of an op-ed piece .

In addition, Jolie plans to have a full hysterectomy preformed to further reduce her statistical likelihood of contracting cancer. Jolie said that before she turns 40, she will have the procedure done to completely sterilize herself in the name of preventing cancer.

Is the only bio-tech pharmaceutical corporation that offers a blood test that can determine whether or not a patient is susceptible to the BRCA1 gene.

MG "discovered" and quickly patented the BRCA1 and BRCA2 genes. This meant that research on these genes would necessitate the scientists and laboratories pay MG fees, which discourages independent testing.

Of course, MG claims that they invested $500 million in finding the genes; they deserve to recoup those costs.

A little understood fact is every human is born with the BRCA1 and BRCA2 genes given to us by our mother and father. What scientists call "mutations" increase the possibility of cancer – either ovarian or breast – and the thought is that if the patient undergoes a hysterectomy or mastectomy than the possibility is reduced.

Genetic counselors, who are hired to sell the product , recommend that testing be part of the patient's inquiry process. Once the test results are finished, it is a matter or the numbers game; reading to the patient statistical data that supposes their fate-rate.

There is a theory that the BRCA 1 & 2 genes may be more influential in some genetic types than others due to a specific type of mutation.

Stated on the National Cancer Institute's (NCI) website concerning the BRCA 1 & 2 genes, "Not all gene changes, or mutations, are deleterious (harmful). Some mutations may be beneficial, whereas others may have no obvious effect (neutral)."

Further, the NCI clearly explains: "Not every woman in such families carries a harmful BRCA1 or BRCA2 mutation, and not every cancer in such families is linked to a harmful mutation in one of these genes. Furthermore, not every woman who has a harmful BRCA1 or BRCA2 mutation will develop breast and/or ovarian cancer."

Dr. C.k. Naidu, senior surgical oncologist at the Basvatarakam Indo-American Cancer Hospital and Research Centre explained that "only 5 to 6 per cent of breast cancers were linked to genetic factors and 95 per cent had no genetic causes."

There are factors such as lifestyle, nutrition and other environmental factors that play into the development of cancer.

One such culprit is parabens. When biopsies of breast tumors are researched, it is found that they contain 99% parabens.

This chemical is found in food, packaging and healthcare products.

Indeed, a recent study conducted by researchers at the New York State Department of

Health in conjunction with the Department of Environmental Health Services and the University of New York at Albany found that there is an alarming amount of parabens in the US food supply which has drastically increased the propensity of the public to develop cancer – with an emphasis on breast cancer.

When random food samples were taken from various local grocery stores, 90% of the samples dangerously high levels of parabens were detected.

Those found were:

• Butyl-parabens
• Benzyl-parabens
• Propyl-parabens
• Methyl-parabens
• Ethyl-parabens

These deadly chemicals were discovered in:

• Juices
• Soft drinks
• Seafood
• Chicken
• Vegetables
• Fruits
• Breads
• Baked goods

Common every day products such as deodorant, shampoo, conditioner, cosmetics, baby formula all contain parabens which have been linked to the development of cancer.

Deodorant and antiperspirants cause breast cancer through the sweat glands and located in the upper areas of the breast.

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