

# Sanity prevails: US Supreme Court rules that human genes are not eligible for patent protection

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by Mike Adams, the Health Ranger Editor of NaturalNews.com



(NaturalNews) In a unanimous ruling, the United States Supreme Court ruled today that human genes cannot be patented. The ruling invalidates the thousands of patents that have already been granted on human genes, including the patent by Myriad Genetics on the BRCA breast cancer genes which the company says no one else can research or even detect without paying it a royalty. [Click here to read the complete ruling.](#)

"Myriad did not create anything," said Justice Clarence Thomas. "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."

Well, exactly. This point should have been obvious to the lower courts, too, but in today's world of corporate domination over seemingly everything, gene industry lawyers were able to argue that patent protection would somehow inspire more innovation and research. "The biotechnology industry had warned that an expansive ruling against Myriad could threaten billions of dollars of investment," wrote Reuters.

But exactly the opposite is true. Gene patents restricted research and created medical monopolies that raised prices for consumers. Even USA Today seemingly gets this point, saying, "The decision represents a victory for cancer patients, researchers and geneticists who claimed that a single company's patent raised costs, restricted research and sometimes forced women to have breasts or ovaries removed without sufficient facts or second opinions."

The ACLU, which argued the case before the Court, said, "By invalidating these patents, the Court lifted a major barrier to progress in further understanding how we can better treat and prevent diseases."

Corporate efforts to influence the Supreme Court ultimately failed

Had the Supreme Court upheld the patentability of human genes, it would have unleashed a horrifying new era of corporations and universities rushing to claim monopoly patent protection on every gene in the human genome. Virtually no one in the media covered this angle other than Natural News. We warned readers that everything found in nature could then be patented: blades of grass, insects, human ears, eye colors, hair colors... anything encoded with DNA.

We also pointed out that Angelina Jolie's carefully orchestrated announcement of a double mastectomy following BRCA gene testing seemed timed to be part of a public relations campaign engineered by the biotech industry to influence the Supreme Court decision. We also challenged Jolie to publicly denounce patents on human genes, which she never did.

It's clear that powerful forces were at work behind the scenes to try to influence this Supreme Court decision, but they failed. Ultimately, the court discovered a moment of unanimous sanity... something we see so rarely that perhaps it deserves patent protection, too.

Huge loss for the biotech and pharmaceutical industries

It's important to note that this decision is a huge loss for the biotech and pharmaceutical industries, both of which relentlessly seek total domination over all forms of life on the planet through monopoly patent protection. The biotech industry, of course, would love to patent all seeds and food crops -- even ones it hasn't genetically engineered. And the pharmaceutical industry would love to patent every human gene, thereby claiming literal ownership over every human being born into the world.

Myriad Genetics tried every desperate argument to convince the court that human genes should be patentable by corporations. They even rolled out a whacky "baseball bat theory" which claims it's an "invention" to decide where to start and end a gene sequence:

"A baseball bat doesn't exist until it's isolated from a tree. But that's still the product of human invention to decide where to begin the bat and where to end the bat." - Myriad lawyer Gregory Castanias.

That absurd argument claims that the mere deciding of which genes to snip out of DNA strands somehow makes all genes corporate property. Thankfully, the court did not agree with the baseball bat theory. As Chief Justice John Roberts explained:

"The baseball bat is quite different. You don't look at a tree and say, well, I've cut the branch here and cut it here and all of a sudden I've got a baseball bat. You have to invent it."

Huge victory for humanity

Ultimately, this decision is a tremendous victory for all humankind because it prevents the power-hungry, evil-bent medical and biotech corporations from claiming ownership over genetic sequences that already occur in nature.

This ruling means the biotech industry cannot patent common plants and animals, either. They can't patent human body parts or human gene sequences. Yes, the industry can still patent synthetically-created genes, said the Supreme Court, but that's something they would actually have to create rather than merely discover in an already-existing organism.

Today's ruling also means that men and women will have access to far less expensive testing for gene sequences in their own bodies. Currently, women who want to test themselves for the BRCA1 and BRCA2 genes must pay as much as \$4,000 for the test due to the monopoly "ownership" of those genes by Myriad Genetics. But now that the Supreme Court has ruled such patents are invalid, prices for the test should drastically fall over time as competition enters the picture. Ultimately, the test could eventually be offered for as little as \$100.

The ruling also means that other companies can conduct research on those genes without first seeking permission from Myriad. This will actually spur more innovation, potentially leading to more advanced genetic analysis tests that might help people better understand their health risks (and hopefully encourage them to change their diets and lifestyle choices to avoid expressing those genes).

In a world that seems increasingly dominated by corporate monopolies and biotechnology insanity, this ruling is a breath of fresh air. It confirms that corporations cannot patent naturally-occurring things which have been in existence for hundreds of thousands of years, and it confirms that when you have a child through an act of genetic replication, corporations cannot force you to pay royalties for your own child.

This is a decision of fundamental freedom, which is why I'm shocked the court actually ruled this way. This must be one of those rare moments of sanity in a Supreme Court that otherwise seems intent on destroying human liberty, dignity and justice.

Decision shows the important work of ACLU in protecting human rights against corporate domination

We must all thank the ACLU on this decision, as it was the ACLU which argued this to victory.

"Over the last 30 years, the U.S. Patent Office has issued patents on thousands of human genes, including genes associated with colon cancer, Alzheimer's disease, muscular dystrophy, and many other devastating diseases. The status quo meant that companies controlling gene patents had the right to stop all other scientists from examining, studying, testing, and researching our genes," the ACLU wrote in a press release.

The ACLU further wrote:

We celebrate the Court's ruling as a victory for civil liberties, scientific freedom, patients, and the future of personalized medicine. It also demonstrates the power of creating alliances and fighting for the public

interest. The ACLU and the Public Patent Foundation filed the case four years ago on behalf of twenty plaintiffs, including organizations representing over 150,000 medical professionals, geneticists, breast cancer and women's health advocacy groups, and patients. Few thought we had a chance against the decades-long Patent Office practice as well as the entrenched industry position. But litigation can be a strong tool in producing change, never more than when diverse communities come together. Here, the medical, scientific, and patient communities united, and were soon joined by many others, eventually including the U.S. government. We honor the contributions everyone made to our success today.

The ACLU, by the way, has also filed suit against the NSA's Patriot Act phone surveillance.

## Supreme Court Strikes Down BRCA Gene Patent But opens the door for the future patents



The U.S. Supreme Court building in Washington, D.C. (Chip Somodevilla/Getty Images)

By [ARIANE DeVOGUE \(@Arianedevogue\)](#)  
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The Supreme Court ruled today that isolated human genes cannot be patented, a partial defeat for Myriad Genetics, a company that had been awarded patents on the so-called BRCA1 and BRCA2 genes in the 1990s.

But the court said DNA molecules engineered by man -- including so-called "cDNAs" -- are eligible for patents.

"Myriad did not create anything," Justice Clarence Thomas wrote for a unanimous court.

"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."

Synthetic "cDNA" does not present the same obstacles to patentability as naturally occurring isolated DNA segments, Thomas wrote.

Myriad acknowledged the court's ruling that five of its claims covering isolated DNA were not patent eligible. But Myriad "has more than 500 valid and enforceable claims in 24 different patents conferring strong patent protection for its BRCAAnalysis test," the Salt Lake City, Utah-based company said in a statement today.

The court today adopted a middle-ground position that the U.S. government had put forward.

"Today, the court struck down a major barrier to patient care and medical innovation," said Sandra Park, senior staff attorney with Women's Rights Project of the American Civil Liberties Union, which had challenged the patents.

"Myriad did not invent the BRCA genes and should not control them. Because of this ruling, patients will have greater access to genetic testing and scientists can engage in research on these genes without fear of being sued."

Women with mutations in the genes BRCA1 or BRCA2 are five times more likely to be diagnosed with breast cancer, according to the National Cancer Institute. That means that 60 percent of women with a BRCA mutation will develop breast cancer in their lifetime, compared to 12 percent of women in the general population.

But less than 1 percent of women actually have a BRCA mutation, making costly genetic testing unnecessary for most.

Biotechnology companies, racing to create personalized tests and treatments tailored to a person's genetic makeup, were closely watching this case.

Professor Lori Andrews of the Illinois Institute of Technology Chicago-Kent College of Law said, "Today's decision allows any doctor or scientist to use the breast cancer gene for

diagnosis or treatment. This means all genetic tests will become affordable and more researchers will be able to look for cures."

Andrews filed a brief opposing Myriad's patent but says that biotechnology companies will be adequately protected if they genetically engineer a product.

The challenge to Myriad's patents was brought by scientists, researchers and patients who believed that the patents stood in the way of further research on the genes and limit the availability testing. The ACLU represented the groups in court and argued the court should invalidate the patents because they cover a product of nature and not an actual invention.

Because of the patents, Myriad is the only place in the United States to go for diagnostic testing at a \$3,340 price tag.

Myriad's lawyers had fiercely defended its patents, arguing that they have been essential to the development of diagnostic tools to help patients and doctors assess the risks of cancer.

*ABC News' Josh Hafenbrack and Katie Moisse contributed to this report.*