

SUPREME COURT OF THE UNITED STATES

Syllabus

ASSOCIATION FOR MOLECULAR PATHOLOGY et al. v. MYRIAD GENETICS, INC., et al.

Argued April 15, 2013—Decided June 13, 2013

No. 12–398.

Myriad obtained patents after discovering the precise location and sequence of the BRCA1 and BRCA2 genes, mutations of which can dramatically increase the risk of breast and ovarian cancer. The discovery enabled Myriad to develop medical tests for detecting mutations for assessing cancer risk. Myriad's patents would give it the exclusive rights to isolate an individual's BRCA1 and BRCA2 genes and to synthetically create BRCA complementary-DNA (cDNA). The district court entered summary judgment, finding the patents invalid under 35 U.S.C. 101 because they covered products of nature. On remand following the Supreme Court's decision, *Mayo Collaborative Servs. v. Prometheus Labs, Inc.*, the Federal Circuit found both isolated DNA and cDNA patent-eligible. The Supreme Court affirmed in part and reversed in part, noting that the case did not involve "method claims" for new applications of knowledge about the genes or the patentability of DNA in which the order of the naturally occurring nucleotides has been altered. A naturally-occurring DNA segment is not patent-eligible merely because it has been isolated, but cDNA is patent-eligible because it is not naturally-occurring. Myriad did not create or alter the genetic information encoded in the genes or the genetic structure of the DNA. Even brilliant discovery does not alone satisfy the section 101 inquiry. Myriad's claims are not saved by the fact that isolating DNA from the human genome severs chemical bonds that bind gene molecules together. The claims are not expressed in terms of chemical composition, nor do they rely on the chemical changes resulting from the isolation of a particular DNA section. Complementary DNA, however, is not a "product of nature;" a lab technician unquestionably creates something new when introns are removed from a DNA sequence to make cDNA.