

Media release

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Breast cancer gene patent case: Appeal will go ahead

Today Maurice Blackburn has lodged an appeal in the Federal Court against the decision of Justice Nicholas made on 15 February, 2013 about the patenting of human genetic material. (*Cancer Voices Australia v Myriad Genetics Inc* [2013] FCA 65)

Rebecca Gilsenan, principal at Maurice Blackburn said:

“We believe we have a good basis to appeal the decision that isolated human genes are patentable. We intend to continue the challenge to the monopoly created by the patent held by Myriad and to refute the point that isolated human genes are a “manner of manufacture” and an “artificial state of affairs.”

The appeal is likely to be heard later this year.

Yvonne D’Arcy, applicant in the case said:

“I won’t give up the fight – we need to continue for future generations of people who at some point in their life, may need treatment for cancers and other diseases.”

The test case against two biotech companies including Myriad Genetics Inc. and Melbourne-based Genetic Technologies Ltd was launched in June 2010 by Maurice Blackburn on behalf of Cancer Voices Australia and Ms D’Arcy. Cancer Voices is not an applicant in the appeal.

The case was heard by Justice Nicholas, over five days in February 2012. It centred on the patent (**Patent 686,004**) and in particular the claims in that patent to mutations of a gene known as BRCA1. When these mutations exist on the BRCA1 gene they are associated with an increased risk of hereditary breast and ovarian cancer.

For media inquiries contact:

Amanda Tattam at Maurice Blackburn

T 0413 997 467

E atattam@mauriceblackburn.com.au

Facebook: <https://www.facebook.com/MauriceBlackburnLawyers>

Twitter: [@wefightforfair](https://twitter.com/wefightforfair)