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## **US gene patent ruling sends message to Australian policy makers, say Cancer Council, COSA**

A US court ruling that patents should never have been granted for the BRCA1 and BRCA2 gene mutations linked to breast and ovarian cancer reinforces Cancer Council Australia and the Clinical Oncological Society of Australia's (COSA's) call for gene patenting law reform in Australia.

Cancer Council Australia Chief Executive Officer and medical oncologist, Professor Ian Olver, said the US judge's finding that biological materials in an isolated form are discoveries, not inventions, clarifies the ambiguity that has clouded the gene patenting debate.

"We have long affirmed that the discovery of material that exists in nature is not an invention and should never be patented," Professor Olver said.

"For a court in the US – where many gene patents are held – to rule that patenting genetic material is invalid sends a message to Australia, when our Senate is concluding an 18-month inquiry into gene patents.

"This result is not only significant to research and diagnostic uses of BRCA1 and BRCA2, it also sets a precedent for preventing the establishment of commercial monopolies over the use of many other genes and mutations that might hold the key to reducing cancer death and disease.

"It should send a message to Australian policy makers. We trust the Senate committee inquiring into this issue is watching with great interest."

COSA President, Professor Bruce Mann, a surgeon who treats women at genetic risk of breast cancer, said a similar ruling in Australia would give comfort to Australian women, whose access to public genetic testing for breast and ovarian cancer was threatened by an attempted commercial monopoly in 2008.

"Until Australian courts follow the US lead and recognise that genes should not be patented, the future of public access to genetic tests and to other vital, non-commercial uses of genetic material remains uncertain," Professor Mann said.

"The US judge thoroughly examined the facts and issues relating to the patents, producing a 156-page analysis that also ruled as invalid the patenting of tests for identifying the gene mutations.

"This is a clear determination based on a sound fundamental principle that biological materials in isolated form are not inventions and should be freely available for non-commercial use."

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