

## **The Gene Patent Suit: It's All about the Money**

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The plaintiffs and their ACLU attorneys have wrapped themselves in the mantle of scientific freedom and women's health, but the suit is ultimately about money. The molecular pathologists want to be able to offer the tests themselves for a fee. The opinion is replete with references to people charging much less than Myriad charges. Of course they can. Myriad invested substantial amounts of time, money and effort to commercialize the technology. Once the tests have been developed and proven, it's easy for someone else to take a free ride. That's why the friendly street corner vendor is able to offer Avatar for a dollar.

The judge cited a study by Mildred Cho which found that 53% of surveyed laboratory directors decided not to develop a new clinical test because of a gene patent or license and 67% believed that gene patents decreased their ability to conduct research. He did not cite the article where it was published, which is *Journal of Molecular Diagnostics*, Vol. 5, No. 1, February, 2003, pgs. 3-8. A closer examination of the article shows that the respondents simply did not want to pay to license the patented tests. One of the respondents even acknowledged this by stating, "People shouldn't be complaining that they can't run tests. They should just pay."

Access to patented technology is a cost of doing business. Facilities and reagents are not free, and employees do not work for free. Drugs are not free, nor are most medical services. Why should new technology be free?