

Human gene patents after the US Supreme Court argument on “Myriad case”

Abstract

The long-standing practices of both the US and the European Patent Offices have been treating genes as chemical compounds. According to these practices DNA molecules have been considered as patentable subject-matter when *isolated* and *purified* from their natural state or when *synthesized* from the starting point. However, besides the dominant representation of human genes as chemical compounds, legal theory refers to genes as *information carriers*. According to this concept, genes consist of something more than their component chemical molecule, that is the scientific information they carry. The article examines human genes in the light of recent “Myriad case”. The main scope is to show that the adoption of each of the two concepts has a significant and direct impact on its patent eligibility as subject-matter for patent claims. The issue of *isolation* regarding gene sequences is also investigated from the angle of sufficiency (or insufficiency) as a main standard of patentability.