

Stories of Gene Patenting

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The debate over gene patenting has been ongoing for nearly three decades in the United States. In June 2013, public dialog concerning gene patenting reached a peak with the Supreme Court's controversial decision in *Assn. for Molecular Pathology v. Myriad Genetics*. The Myriad case was remarkable for many reasons, not least because it fostered the emergence of five distinct narratives to explain the "facts" in dispute. These narratives, which I have termed Science, Pioneer, Administrative, Access and Cautionary, represent a range of narrative types that can be observed in numerous settings. In this paper, I trace the origins of each of these narratives in the Myriad case, as well as its adoption and use by each of the courts that issued an opinion in the case. I conclude that these narratives have had an observable impact on the judicial interpretation of the case, as well as the outcomes reached by the different judges writing opinions in the case. These observations can inform thinking regarding judicial decision making more generally, particularly with respect to cases involving innovation.

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