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Impact of Myriad Decisions on Patent Eligibility of Biotechnology Inventions in Australia and the US.

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The eligibility of certain biotechnological inventions for patent protection has come under intense scrutiny in recent years, both in Australia and the United States (US). For example, the patent eligibility of biological substances has been subject to judicial review in both countries by virtue of the various *Myriad Genetics* cases. In the US, the *Myriad* litigation and other judicial decisions (e.g. *Mayo v Prometheus*) have culminated in a less favourable environment for applicants seeking patent protection for certain types of biological inventions. In contrast, the Australian courts in considering the *Myriad* cases have, at least thus far, delivered a favourable outcome for patent applicants in Australia. However, the High Court of Australia (HCA) recently granted special leave to appeal the earlier decision of the Full Federal Court (FFC) on the *Myriad* cases, a development that raises uncertainty as to the longevity of the FFC's decision. The HCA is expected to provide its decision in late 2015. This oral presentation will provide an overview of the current positions in Australia and the US relating to the patent eligibility of biotechnological inventions, as relevant to vaccines and other similar technologies.

Biography

Simon Potter completed a PhD for research in the area of virology and genetics at the Westmead Millennium Institute Sydney in 2004. He undertook postdoctoral research at the Pasteur Institute in France from 2004-2006, working in the areas of human immunology and cellular biology. Simon joined Spruson & Ferguson in early 2007 and is a registered patent attorney in Australia and New Zealand. He is also a registered Australian Trademark attorney. Simon became a Principal of the firm in 2012, and has particular expertise in identifying, protecting, and advancing intellectual property rights in the field of biotechnology both in Australia and overseas.

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