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Charity wins BRCA2 patent

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Researchers have welcomed the [announcement](#) this week (February 11) that the charity Cancer Research UK had obtained a Europe-wide patent on the cancer susceptibility gene BRCA2 and will allow publicly owned laboratories to use the gene free of charge.

The patent awarded by the [European Patent Office](#) covers all attempts to sequence the BRCA2 gene or to test for damaged or inactive variants. It will extend the access currently available to researchers in the UK, where the commercial subsidiary of Cancer Research UK (Cancer Research Technology Limited) already holds a patent on the gene. The charity suggested that it will significantly boost cancer research throughout the continent. Any laboratory wanting to investigate the gene would usually have to pay a license fee to the patent holder, but Cancer Research Technology has agreed in principle to waive the fees for all public laboratories that apply to it.

[Peter Rigby](#), chief executive of the Institute of Cancer Research in London, said: "This patent means that the discovery of the BRCA2 gene, which was made here at the Institute, will be freely available to our colleagues throughout Europe to research."

The situation in Europe was previously complicated by the fact that a US biotechnology company, [Myriad Genetics](#), had been awarded patents on the BRCA1 and BRCA2 genes that gave it rights to develop commercial laboratory testing services, diagnostic tests, and therapies based on the gene sequences. However, a UK patent was also held by Cancer Research Technology because much of the BRCA2 gene was [first published](#) by Mike Stratton's group at the Institute of Cancer Research, London, based on work funded by Cancer Research UK.

[Gert Matthijs](#), head of molecular diagnostics, University Hospital Leuven, Belgium, and a representative of the [European Society of Human Genetics](#), said: "On behalf of the many European genetic diagnostic laboratories involved in the opposition procedures against the patents on the BRCA1 and BRCA2 genes owned by Myriad Genetics, we wish to express our strong appreciation to Cancer Research UK because they have chosen to offer royalty-free licenses on its patent on the BRCA2 gene to public health services in European countries."

"This decision may contribute to the resolution of the precarious situation that had arisen after Myriad Genetics had effectively denied other laboratories [the chance] to perform complete testing of the BRCA1 and BRCA2 genes by retaining its monopoly and requesting all samples to be sent to [its headquarters in] Utah," Matthijs said.

The BRCA2 patent issue illustrates why Europe needs new legislation on the licensing of genes and genetic tests, argued Matthijs. "Genes are not inventions in the same way as other products covered by patent law. If someone holds a patent on a gene, it creates a monopoly because no one can invent a competing product as they could with other items, such as a drug." He suggested a system rather like royalties for use of music might be one way forward to reimburse researchers for the costs of discovering genes and then make them available to others at an affordable price.

Helen Wallace, deputy director of [GeneWatch](#), a not-for-profit public interest group, suggested that the only solution was a total ban on patents for genes: "Defensive patents are limited in what they can

achieve because they do not address the underlying problems with gene patenting. The granting of this patent should mean better public access to this piece of the genetics jigsaw, but it will not stop gene patenting from stifling research.

"Only a ban on patenting gene sequences will allow scientists to put the pieces of the genetic jigsaw together freely - leading to possible new treatments," she said.

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