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## Breast test patent rights challenged

A PATENT lawyer has claimed that exclusive rights over a breast cancer gene test used by thousands of Australian women may be illegal and unenforceable.

Biotechnology company Genetic Technologies has announced it will enforce its patent rights over tests for BRCA1 and BRCA2, two genetic mutations which increase breast cancer risk.

Under the arrangement, the company has ordered the nation's eight public laboratories to stop doing the test so it can offer it exclusively.

The move enforces the company's rights granted by the patent owner, US firm Myriad Genetics.

However, Australian cancer experts fear the arrangement will drive up the \$2500 test price tag, limiting availability to Australian women and stifling genetic research.

Now Australian National University academic Dr Luigi Palombi, a specialist in biotechnology patents, claims the tests are "unpatentable" and says their validity needs to be tested in an Australian court.

"In my view they're not patentable and should be revoked," he said.

"The Patents Act requires that there be an invention and quite frankly discovering that there is a link between a particular gene mutation and human disease is not what I would call an invention.

"It's a discovery, a great discovery, but not something that should be the subject of a patent that affects price and prevents other scientists using that genetic material to make more discoveries."