

Confidential Email

The Commissioner
IP Australia
P O Box 200
Woden
ACT 2606
Australia

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Email: mdb-patents-consultation-group@ipaaustralia.gov.au
VIA EMAIL ONLY

Dear Commissioner

Comments on proposed examination practice following the High Court decision in *D'Arcy v Myriad Genetics Inc*

Baldwins welcomes the opportunity to comment on the proposed examination practice following the High Court decision in *D'Arcy v Myriad Genetics Inc*. We would be pleased to engage further with the Commissioner if required.


"Baldwins" comprises the patent attorney firm Baldwins Intellectual Property and the law firm Baldwins Law Limited which provides litigation and other legal services. Further information is available on our website at <http://www.baldwins.com/firm-profile/>.

Baldwins employs over 20 Australian Registered Patent Attorneys and our clients are regular users of the Australian patent system.

Given the scope of the High Court's decision, Baldwins is in general agreement with the proposed practice, and the narrow interpretation that is intended to be given to the decision. We would, however, strongly suggest a review of Australia's patent legislation to address whether patent protection should be available for nucleic acid sequences in the future.

We would also appreciate some clarification on the patentability of a nucleic acid that encodes an antigenic fragment (such as a vaccine). Such an antigenic fragment is arguably not a functional peptide as known in nature.

Yours faithfully
Baldwins Intellectual Property



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