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## AusBiotech Ltd

### Press Statement

#### Federal Court Gene Patent Case

Today US company Myriad advised the Australian Federal Court that it has abandoned the BRCA1 patent with the approval of Genetic Technologies Limited. This action although not negatively impacting Genetic Technologies may have far reaching consequences for all technology based companies that are researching, developing and delivering life saving tests to the community.

The CEO of AusBiotech the national biotechnology industry body said "If Australian technology users do not respect patents for specific technologies then multinationals may choose to leave as Myriad has done today or indeed may choose not to enter the Australian market in future. Australia is not able to alone develop all new therapies and tests that people need. There is nothing to gain from creating a country which has poor access to new technology; this would be expected to have a serious negative impact on health care."

Although some patients may believe that government funded laboratories and research institutes have the capability to provide all testing needs, this may not be correct. The transition of tests from individual publicly funded laboratories to fully validated diagnostics which can be performed across a range of laboratories giving reliable information to doctors and patients is complex and costly. For example, will publicly funded laboratories have the capability and funds to generate the dossiers required by the TGA for a registered product? Will they also be in a position to pay the TGA to maintain registration of these diagnostics and will they be able to maintain appropriate quality controls as required by the regulator.

Genetic Technologies Ltd is at present the only laboratory in Australia upgrading to international standards including those of the USA and European in this area; a truly international player with the correct approvals and quality standards. If Australia does not allow or uphold certain biotechnology patents, including for gene patents nor respect commercial practice then not only will multinationals leave but Australian companies may leave our shores as well. This may result in Australians having either poor or no access to what the world has to offer and to being reliant on local, government funded laboratories for research, development and implementation of new technologies including diagnostic tests.

Myriad's decision to abandon its patent is a pyrrhic victory for some, as Genetic Technologies will continue to offer the BRCA1 test which Genetic Technologies can provide faster and at a similar fee as publicly funded laboratories. In addition, all women who wish to know their risk of breast cancer can be tested by Genetic Technologies whereas only high risk patients are tested elsewhere. The choice for women is clear - better access, similar price and faster results.

AusBiotech as the national industry association has made submissions to the Senate Inquiry regarding this matter and now looks to the Senate Inquiry and ultimately the Australian Parliament as the appropriate forum for determinations regarding public policy. In truth the law as it stands contains Crown use and compulsory licensing provisions which could allow the government to exploit a patent in certain circumstances, including by offering tests via the public health system as well as compensating the patent holder for their development investment.

In consideration of the issues we should not forget that industry provides vital support to clinicians and patients, and this needs to be better understood by all so that the community can have confidence in the quality of services and products. Our aim should be that all Australians have access to the latest developments in healthcare and related technologies.

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