

## Patents with an “I” = Patients

Alice O. Martin\*  
Sendil K. Devadas\*\*

Are patents beneficial to patient care? There is ample evidence that patents with an “I”—where the “I” indicates investors—benefit patients by making diagnostic assays and therapeutic products available to the public through commercialization. In particular, since the landmark U.S. Supreme Court decision that opened the portals to the wonders of biotechnology,<sup>1</sup> and the passage of the Bayh-Dole Act enacted on December 12, 1980, which allowed commercialization by the private sector of patented inventions arising from federally funded research, biotechnology patents have been the foundation of hundreds new therapeutic products, vaccines and diagnostic assays.<sup>2</sup> Living testimonials to the success of modern medicine are cancer survivors, notably those cured of childhood leukemia, transplant recipients, and those at cardiovascular risk who are populating the streets instead of graveyards.

The correlation between beneficial scientific advances and development of patent systems is demonstrated internationally. The Bayh-Dole Act has

---

\*Alice O. Martin, Ph.D., J.D., is a partner in the Chicago Office of Barnes & Thornburg, LLP and is co-chair of the Life Sciences Practice Group. She is also a member of the Intellectual Property Department where she concentrates on patent and trademark litigation and prosecution, opinions and due diligence investigations, focusing on medical and biotechnology areas. Prior to practicing law, Dr. Martin was a professor of Obstetrics and Gynecology in the Northwestern University Medical School and Director of the Laboratory of Cytogenetics in Northwestern Memorial Hospital. This article stems from ideas presented and discussed while moderating a panel at Loyola University Chicago School of Law’s Second Annual Beazley Symposium on Access to Health Care, “Perspectives on Patents and Patients: Can they Coexist?” in November 2008.

\*\*Sendil K. Devadas, Ph.D., J.D. is an associate in the intellectual property department at Barnes & Thornburg, LLP, and can be reached via email at [sendil.devadas@btlaw.com](mailto:sendil.devadas@btlaw.com). His intellectual property practice focuses on all areas of biotechnology patent prosecution, due diligence, licensing and litigation.

The opinions and views expressed in this article are that of the authors only and do not in any way reflect upon Barnes & Thornburg, LLP or any of its clients.

1. *Diamond v. Chakrabarty*, 447 U.S. 303, 318 (1980).

2. *Stifling or Stimulating – The Role of Gene Patents in Research and Genetic Testing: Hearing Before the Subcomm. on Courts, the Internet, and Intellectual Property of the H. Comm. on the Judiciary*, 110th Cong. 60-65 (2007) [hereinafter Statement of Jeffrey P. Kushan] (prepared statement of Jeffrey P. Kushan, on behalf of the Biotechnology Industry).