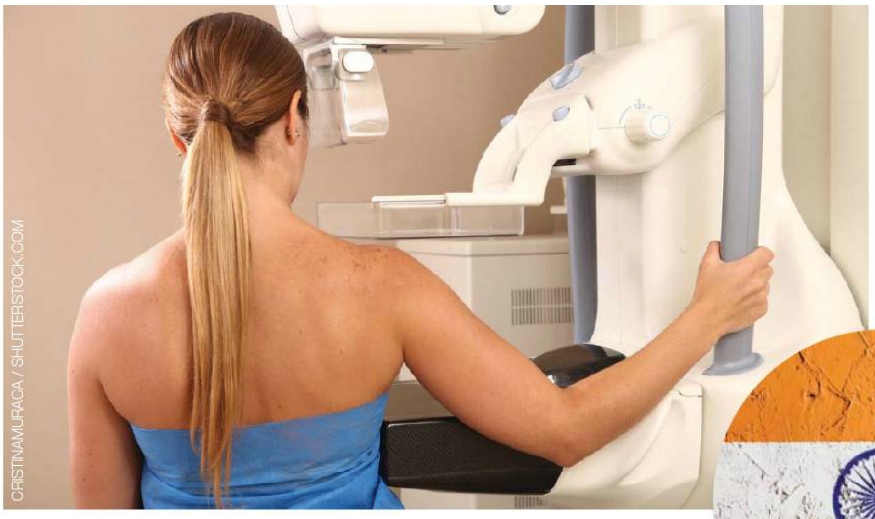
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"manner of manufacture" and are therefore patent eligible under Australian law.

The latest ruling has overturned that decision. The court found that while the discovery of the gene was a product of human action, to consider it an invention stretched Australia's patent law.

Tania Obranovic, special counsel at Watermark Intellectual Asset Management, an Australian firm of patent and trademark attorneys, says the decision has "reversed decades of accepted patent practice" and sets Australian law at odds with most major jurisdictions.

"Although ostensibly mirroring the corresponding US Supreme Court *Myriad* decision, the Australian decision actually goes further in that it also invalidates the patentability of cDNA, for which no natural counterpart exists," she adds.

10 Indian forum-shopping

In India, some clarity on where IP owners can file lawsuits alleging IP infringement was given earlier this year.

In *Indian Performing Rights Society (IPRS) v Sanjay Dalia & Anr*, the Supreme Court of India said that plaintiffs must sue in courts which have jurisdiction where they carry out business.

The dispute focused on a copyright infringement claim originally filed by IPRS at the Delhi High Court in 2007. The court is thought to be popular due to its having judges with considerable exposure to IP-related issues.

IPRS' head office was in Mumbai but it had a branch office in New Delhi.


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The defendants owned cinema halls in the Mumbai area, which was also the place where the infringement was alleged to have occurred by the plaintiff and the action had arisen. They challenged the decision to file suit in Delhi.

The Delhi High Court upheld the defendants' objection and said that the suit should have been filed at the court in Mumbai. IPRS appealed against the order to the Supreme Court but the appeal was rejected.

Gaurav Mukerjee, partner at law firm Remfry & Sagar, says: "The case is a major step towards removing whatever little ambiguity had existed regarding territorial jurisdiction for a suit for infringement of copyright and/or a trademark.

"The ruling is primarily aimed at curtailing the mischief potential of the provisions in question, ie, the possibility of the plaintiff dragging the defendant to far-flung places." ■