



Intellectual Property Law

Q My company has identified a gene which may prove therapeutically valuable. What aspects of this discovery are eligible for patent protection?

A If the gene is presently unknown, you may be able to obtain patent protection on the isolated gene itself, cells expressing the gene, and the isolated gene product. If the gene has been published by another entity, you may be able to obtain patent protection

in the United States if you discovered the gene before it was discovered by the entity responsible for the publication and if you file a patent application within one year of the publication, although foreign patent protection may not be available in

view of the prior publication.

If you are the first to discover the relationship between the gene and a particular disease, patent protection may be sought for subject matter based on this correlation. Patent protection may later be sought for compounds which act on the gene product upon

their identification.

It is important to involve your intellectual property counsel at an early stage in the discovery process in order to ensure that patent protection is sought at the appropriate time and for the appropriate subject matter.

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