

Sequenom v. Ariosa (con'd): Questioning the Question Presented

A senior member of the patent profession has privately raised two questions concerning the *Question Presented*:

- (a) "What is the new combination of known techniques?"
- (b) "What is the previously impossible result?"

This writer will not speculate on the two questions raised by the senior colleague, but adds yet a third:

- (c) Where does one "preempt[] other uses" of *any* DNA in a test where the object, as here, is to *identify known DNA*.

For convenience, the *Question Presented* is repeated, here, with emphasis added:

"Whether a novel method is patent-eligible where: (1) a researcher is the first to discover a natural phenomenon; (2) that unique knowledge motivates him to apply a [(a)] **new combination of known techniques** to that discovery; and (3) he thereby achieves a [(b)] **previously impossible result** [(c)] **without preempting other uses** of the discovery."

Regards,
Hal

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