Lawyer’s 20-year mission to deny human gene patents succeeds in Australia, US

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Luigi Palombi’s desk was stacked high with thick manila folders and surrounded by a forest of them. Their contents might describe a new type of sea brake, an improved plastic extruding machine or graphic material from *Hustler* magazine.

All par for the course for the Sydney-based intellectual property and trademark lawyer. But in 1993, something landed on Palombi’s desk that made him scratch his head. It was a patent that claimed the genetic code for the hepatitis C virus.

The claim, made by Californian company Chiron, wasn’t just odd, it was at odds with the principles of patent law.

In 1790, when the first patent statutes were written in the United States, American courts had judged that “manifestations of … nature [are] free to all men and reserved exclusively to none”.

Yet since the 1980s, when it came to bits of the DNA code, the Australian and US patent offices had apparently changed their thinking. The feisty young Palombi decided they were wrong – and took on an epic battle that would change the direction of his legal career and his life.

More than two decades later, the highest courts of both countries vindicated him. On 7 October 2015, the High Court of Australia ruled genes could not be patented. “The information [contained in the genes] is not ‘made’ by human action. It is discerned,” noted the majority of judges. The US Supreme Court reached a similar ruling the year before.

Read full, original post: Patenting human genes was always a bad idea, now it’s history