

Ruling of Barcelona Commercial Court no. 5 of 12 September 2017, Commercial Court of Barcelona, AJM B 75/2017, 12 September 2017

Kluwer Patent Blog

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Adrian Crespo (Clifford Chance)

Please refer tot his post as: Adrian Crespo, 'Ruling of Barcelona Commercial Court no. 5 of 12 September 2017, Commercial Court of Barcelona, AJM B 75/2017, 12 September 2017', Kluwer Patent Blog, February 27 2018, <http://patentblog.kluweriplaw.com/2018/02/27/ruling-barcelona-commercial-court-no-5-12-september-2017-commercial-court-barcelona-ajm-b-752017-12-september-2017/>

A Spanish patents court rules for the first time on the sometimes blurry line dividing “discoveries” and “inventions”. The Court found that a method for prenatal diagnosis based on the discovery that sufficient fetal DNA can also be detected in maternal serum or plasma is a non-patentable discovery, because it lacks any “additional technical teaching” beyond that discovery. Interestingly, the High Court of Justice of England and Wales has reached the exact opposite decision in respect of the same patent.

A full summary of this case has been published on [Kluwer IP Law](#).