

COVID-19 Spotlights Ruling's Chilling Effect on Diagnostic Tests

Bloomberg Law

03.23.2020

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Maria Laccotripe Zacharakis, PhD

The new coronavirus outbreak highlights how a 2012 U.S. Supreme Court decision has discouraged drugmakers from developing new diagnostic tests for diseases like Covid-19—a problem that should be addressed, intellectual property lawyers said.

Mayo “disincentivized a lot of diagnostic companies from developing these tests in general,” Maria Zacharakis, a member of McCarter & English’s IP practice and managing partner of the Boston office, said.

“These tests are very expensive to develop and patent protection is necessary,” Zacharakis said. “The same costs are associated with developing Covid-19 tests, and the same disincentivization will be there. Though there may be more incentive because of the pandemic and the government involvement.”