

24 July 2017



*Improving the quality of life for people in pain through novel,  
cost effective pain assessment tools*

ePAT Technologies Limited

ABN 21 146 035 127

Suite 401, 35 Lime Street, Sydney, NSW, 2000

Registered Office: Suite 5, 95 Hay Street Subiaco WA 6008

Phone +61 8 9388 8290

Mr Adrian Smythe  
Manager – Listings Compliance  
ASX Compliance Pty Ltd  
20 Bridge Street  
SYDNEY NSW 2000

## **AWARE QUERY**

We refer to your letter dated 19 July 2017.

### **Background**

In the Company's prospectus dated 25 August 2016 (page 33), the Company set out the indicative timeline for the development of the Dementia App which included a target date for approval of the registration in Australia and the European Union for the third quarter of 2017. A detailed description of the registration process and the implications of the registration were set out in detail in the prospectus.

Numerous ASX announcements since that date were made by the Company confirming the Company was proceeding with this registration timeline. In particular, the ASX announcement on 28 April 2017 stated:

*The technical file for regulatory approval is being compiled incorporating the completed validation studies and the product information set. This is scheduled for completion during Q2 2017. As ePAT is a Class 1 medical device we plan to be in a position to submit the technical file and self certify for CE Mark and TGA approval in Q3 2017 - followed by local market launch in Q4 2017. These timelines are as per our prospectus timetable.*

We respond to your queries as follows:

1. Does EPAT consider the information to be information that a reasonable person would expect to have a material effect on the price or value of its securities?

Response: Yes

2. If the answer to question 1 is "no", please advise the basis for that view:

Response: N/A

3. When did EPAT first become aware that that its pain assessment App has been CE marked?

Response: 3.20pm AEST 18 July 2017

4. When did EPAT first become aware that that its pain assessment App has been included on the TGA Australian Register of Therapeutic Goods as a Class 1 medical device?

Response: 3.20pm AEST 18 July 2017.

5. Please confirm that EPAT is in compliance with the Listing Rules and in particular, Listing Rule 3.1.

Response: Following receipt of the notifications detailed in points 3 & 4 above, the Company sought to obtain the necessary confirmations and appropriate wording from our regulatory consultant in order to finalise the ASX announcement amongst the Board and Company Secretary. That announcement was finalised and approved for release to market by the Board at approx.. 5pm AEST on 18 July 2017. However there was a miscommunication of the timing of this between the CEO and the Company Secretary which could not be immediately addressed due to the CEO then travelling between Sydney and Perth. This led to announcement being delayed until 8.30am AEST on 19 July 2017.

On the assumption that the announcement had been released to the market by 5pm AEST, the Australian Newspaper was briefed on the announcement by the Company's contract Public Relations Consultant. This article appeared on the morning of 19 July 2017.

The Company considers it made the announcement to the market as soon as practical. The Company notes that the ASX was closed at 4pm on 18 July 2017 and therefore no trading in the Company's securities was possible during the period that the announcement was able to be made and was made on ASX. From our observation, there were no exceptional volume of trading or share price movement on Tuesday 18<sup>th</sup> July.

The Company confirms it is in compliance with the Listing Rules and in particular, Listing Rule 3.1.

6. Please confirm that EPAT's responses to the questions above have been authorised and approved.

Response: Confirmed

Yours sincerely



**Ian Hobson**  
**Company Secretary**



20 July 2017

Mr Ian Hobson  
Company Secretary  
ePAT Technologies Limited  
Suite 5, 95 Hay Street  
Subiaco WA 6008

By email: ianhobson@bigpond.com

Dear Mr Hobson

**ePAT Technologies Limited ("ePAT"): aware query**

ASX Limited ("ASX") refers to the following:

- A. ePAT's announcement entitled "ePAT Pain Assessment App Secures Regulatory Clearance" lodged on the ASX Market Announcements Platform and released at 8:28 am on 19 July 2017 (the "Announcement"), disclosing that the ePAT pain assessment App has been CE marked and is included on the TGA Australian Register of Therapeutic Goods as a Class 1 medical device.
- B. Listing Rule 3.1, which requires a listed entity to give ASX immediately any information concerning it that a reasonable person would expect to have a material effect on the price or value of the entity's securities.
- C. The definition of "aware" in Chapter 19 of the Listing Rules, which states that:

*"an entity becomes aware of information if, and as soon as, an officer of the entity (or, in the case of a trust, an officer of the responsible entity) has, or ought reasonably to have, come into possession of the information in the course of the performance of their duties as an officer of that entity"*

and section 4.4 in Guidance Note 8 *Continuous Disclosure: Listing Rules 3.1 – 3.1B "When does an entity become aware of information"*.

- D. Listing Rule 3.1A, which sets out exceptions from the requirement to make immediate disclosure, provided that each of the following are satisfied.

*"3.1A Listing rule 3.1 does not apply to particular information while each of the following is satisfied in relation to the information:*

*3.1A.1 One or more of the following applies:*

- *It would be a breach of a law to disclose the information;*
- *The information concerns an incomplete proposal or negotiation;*

- *The information comprises matters of supposition or is insufficiently definite to warrant disclosure;*
- *The information is generated for the internal management purposes of the entity; or*
- *The information is a trade secret; and*

3.1A.2 *The information is confidential and ASX has not formed the view that the information has ceased to be confidential; and*

3.1A.3 *A reasonable person would not expect the information to be disclosed."*

E. ASX's policy position on the concept of "confidentiality", which is detailed in section 5.8 of Guidance Note 8 *Continuous Disclosure: Listing Rules 3.1 – 3.1B*. In particular, the Guidance Note states that:

*"Whether information has the quality of being confidential is a question of fact, not one of the intention or desire of the listed entity. Accordingly, even though an entity may consider information to be confidential and its disclosure to be a breach of confidence, if it is in fact disclosed by those who know it, then it ceases to be confidential information for the purposes of this rule."*

Having regard to the above, ASX asks ePAT to respond separately to each of the following questions and requests for information:

1. Does ePAT consider the information to be information that a reasonable person would expect to have a material effect on the price or value of its securities?
2. If the answer to question 1 is "no", please advise the basis for that view.
3. When did ePAT first become aware that its pain assessment App has been CE marked?
4. When did ePAT first become aware that its pain assessment App had been included on the TGA Australian Register of Therapeutic Goods as a Class 1 medical device?
5. If the answer to question 1 is "yes" and ePAT first became aware of the information before the relevant date, did ePAT make any announcement prior to the relevant date which disclosed the information? If so, please provide details. If not, please explain why this information was not released to the market at an earlier time, commenting specifically on when you believe ePAT was obliged to release the information under Listing Rules 3.1 and 3.1A and what steps ePAT took to ensure that the information was released promptly and without delay.
6. Please confirm that ePAT is in compliance with the Listing Rules and, in particular, Listing Rule 3.1.
7. Please confirm that ePAT's responses to the questions above have been authorised and approved in accordance with its published continuous disclosure policy or otherwise by its board or an officer of ePAT with delegated authority from the board to respond to ASX on disclosure matters.

#### **When and where to send your response**

This request is made under, and in accordance with, Listing Rule 18.7. Your response is required as soon as reasonably possible and, in any event, by not later than half an hour before the start of trading (ie before 9.30 a.m. AEST) on Tuesday, 25 July 2017. If we do not have your response by then, ASX will have no choice but to consider suspending trading in ePAT's securities under Listing Rule 17.3.

You should note that if the information requested by this letter is information required to be given to ASX under Listing Rule 3.1 and it does not fall within the exceptions mentioned in Listing Rule 3.1A, ePAT's obligation is to disclose the information "immediately". This may require the information to be disclosed before the deadline set out in the previous paragraph.

ASX reserves the right to release a copy of this letter and your response on the ASX Market Announcements Platform under Listing Rule 18.7A. Accordingly, your response should be in a form suitable for release to the market.

Your response should be sent to me by e-mail at [adrian.smythe@asx.com.au](mailto:adrian.smythe@asx.com.au). It should not be sent directly to the ASX Market Announcements Office. This is to allow me to review your response to confirm that it is in a form appropriate for release to the market, before it is published on the ASX Market Announcements Platform.

### **Listing Rules 3.1 and 3.1A**

In responding to this letter, you should have regard to ePAT's obligations under Listing Rules 3.1 and 3.1A and also to Guidance Note 8 *Continuous Disclosure: Listing Rules 3.1 – 3.1B*.

It should be noted that ePAT's obligation to disclose information under Listing Rule 3.1 is not confined to, nor is it necessarily satisfied by, answering the questions set out in this letter.

### **Trading halt**

If you are unable to respond to this letter by the time specified above, you should discuss with us whether it is appropriate to request a trading halt in ePAT's securities under Listing Rule 17.1.

If you wish a trading halt, you must tell us:

- the reasons for the trading halt;
- how long you want the trading halt to last;
- the event you expect to happen that will end the trading halt;
- that you are not aware of any reason why the trading halt should not be granted; and
- any other information necessary to inform the market about the trading halt, or that we ask for.

We may require the request for a trading halt to be in writing. The trading halt cannot extend past the commencement of normal trading on the second day after the day on which it is granted.

You can find further information about trading halts in Guidance Note 16 *Trading Halts & Voluntary Suspensions*.

If you have any queries or concerns about any of the above, please contact me immediately.

Yours sincerely

*[Sent electronically without signature]*

Adrian Smythe  
Manager, Listings Compliance  
P: (02) 9227 0640  
E: [adrian.smythe@asx.com.au](mailto:adrian.smythe@asx.com.au)