

ASX/Media Release

Benitec US Patent Re-examination Update

13 January 2010, Melbourne, Australia: The Directors of Benitec Limited (ASX:BLT) provide the following update on the US patent Ex Parte re-examination on the Graham '099 patent (90/007,247).

The Company was notified on 7 January 2010 that an Examiner's Answer to the Notice of Appeal filed on 22 May 2009 and the accompanying Appeal Brief filed on 27 July 2009 had been issued by the USPTO. The Company received a copy of the Examiner's Answer on Monday 11 January 2010. The Company has now reviewed the Examiner's Answer and provides the following update.

The Examiner's Answer finds that claims 25-28 of the patent are free of the prior art and allowable. This is the first indication from the USPTO of allowable claims in the re-examination. These claims refer to synthetic DNA construct designs with longer "stuffer fragments".

The other claims remain rejected as obvious over the prior art, primarily the Fire et al reference. The Examiner has also withdrawn previously held double patenting rejections, so that only one ground of rejection remains for some of the claims, and none for claims 25-28.

It is the view of Benitec and CSIRO that this represents progress in the re-examination, albeit slow. Benitec and CSIRO will file a reply to the Examiner's Answer no later than 7 March 2010. The preparation of the reply, based on advice from the US attorneys, has already commenced.

"Benitec and CSIRO remain committed to the '099 Graham patent. Moreover, the '099 patent is only one member of a family of patent applications and Benitec and CSIRO are also entitled to seek additional protection of the same or related subject matter, subject to double-patenting laws, in any of a number of US continuation applications. These applications are not subject to all of the restrictions that apply to the '099 reexamination." said Benitec CEO, Sue MacLeman.

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About Benitec

Benitec is an Australian biotechnology company focused on licensing its extensive intellectual property portfolio and developing therapeutics to treat serious diseases using its proprietary ddRNAi technology. For additional information, please visit www.benitec.com.