

EUROPEAN PATENTS UPDATE

- **Outcome of EPO opposition hearing**
- **Benitec executes license from Galapagos NV for RNAi in Europe**

The Hague, The Netherlands, 22 May 2014: Benitec Biopharma Limited (ASX:BLT) advise that, following a hearing before a panel of three Examiners, the European Patent Office (EPO) has upheld an opposition to one of the European ‘Graham’ patents directed to genetic constructs for RNA interference. This decision does not have any relevance to other Graham patents in other jurisdictions, or the other patent families owned or licensed by Benitec.

At the same time, Benitec advises that the company has executed a licensing agreement with Galapagos NV of the Belgium for the use of that company’s issued European patent 1 444 346 for human therapeutics and diagnostics. The license provides Benitec with non-exclusive rights to use that patent for the further development of Benitec’s ddRNAi-based pipeline in Europe.

CSIRO’s EP patent 1555317 in the ‘Graham’ family, licensed exclusively to Benitec for human therapeutics was granted on 28 September 2011, and was due to expire in 2019. An opposition to the patent was filed in June 2012 by BASF and a party known as ‘Strawman Limited’, who is now identified as Galapagos NV. This decision came despite the initially favourable opinion from the panel that issued prior to the hearing and the submissions presented at the hearing by CSIRO’s legal counsel. The decision was made on the preliminary ground that one claim feature was not clearly and unambiguously disclosed in this particular patent specification. The novelty and inventiveness of the claims were not reviewed. The decision is appealable.

Dr Peter French, CEO of Benitec, who was in attendance at the European Patent Office hearing together with representatives of CSIRO (the proprietors of the Graham patent family), stated, “While we are obviously disappointed with this decision, we remain confident that it will have minimal impact on Benitec’s commercial activities and R&D programs. We have a number of other pending European applications in the RNAi patent estate licensed from CSIRO, which we will continue to pursue. In addition we have several other granted patents and patent applications for Benitec’s specific therapeutic indications and of course now the Galapagos patent for RNAi in Europe”.

Benitec’s other patents successfully met all of the patentability requirements for each of the countries where they are now granted. The corresponding US patent to the European patent that was the subject of today’s decision underwent the very vigorous re-examination procedure in which all objections were overturned on appeal and the claims substantially reinstated. The Graham patent in Great Britain was also maintained against a revocation action. The decision by the EPO in this particular patent is therefore inconsistent with most of the rest of the world.

Benitec and CSIRO are currently considering the grounds on which they can appeal this decision.

For more information, please contact the persons below or visit the Company’s website at www.benitec.com.



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About Benitec Biopharma Limited:

Benitec Biopharma Limited is an ASX-listed biotechnology company (ASX Code: BLT) based in Sydney, Australia. The company has a pipeline of in-house and partnered therapeutic programs based on its patented gene-silencing technology, ddRNAi. Benitec is developing treatments for chronic and life-threatening human conditions such as Hepatitis C, Hepatitis B, wet age-related macular degeneration, cancer-associated pain, drug resistant lung cancer and oculopharyngeal muscular dystrophy based on this technology. In addition, Benitec has licensed ddRNAi technology to other biopharmaceutical companies who are progressing their programs towards the clinic for applications including HIV/AIDS, retinitis pigmentosa and Huntington's disease. For more information on Benitec refer to the Company's website at www.benitec.com.