

Benitec Comments on CSHL IP Activity

Benitec Biopharma manages a substantial portfolio of patents relating to the ddRNAi platform technology, improvements to this technology and its pipeline programs. The company continues to hold a dominant position in the field of expressed RNAi and it defends its position in this space. Activities such as the IPRs described further in this communication form part of the routine operational strategy to effectively manage Benitec's IP portfolio, and monitor and take action in relation to the relevant IP landscape.

Benitec filed petitions for Inter Partes Review (IPR) on October 5, 2015 with the USPTO's Patent Trial and Appeal Board (PTAB) regarding four US granted patents assigned to Cold Spring Harbor Laboratories (CSHL). In a series of recent decisions issued by the patent office, Benitec was notified that these petitions were not successful in influencing the PTAB to institute the IPRs. Below are key points to note in relation to these decisions:

1. Four CSHL patents for which IPR petitions were filed on 5 Oct 2015 are US8,202,846, US8,383,599, US8,153,776, and US8,829,264.
2. CSHL responded to the petitions on 8 Jan 2016.
3. USPTO's PTAB decision not to institute the IPRs was based on several reasons, including that the petitions, in the view of PTAB, did not provide arguments that justified further review of the patents by PTAB. Rather, the decision is based on the legal standard which is whether our challenge raised "a reasonable likelihood that the claims are unpatentable".
4. There has been no material review of the patents by the PTAB or comment on validity of CSHL's patents. The PTAB did not and would not comment on whether or not the CSHL patents were valid.
5. The IPR activity does not affect any of Benitec's IP, nor has it drawn Benitec's IP into any patent office proceedings.

Most importantly, the PTAB decisions do not impact or change Benitec's views of the CSHL patents. Benitec continues to review and assess them according to the claims granted and the company's business activities. Benitec also continues to assess its several available options as related to CSHL's IP, which includes refiling the IPR petitions and strengthening its arguments.