

## **ASX/Media Release**

### **Patent re-examination and litigation update**

8 August 2007, Melbourne, Australia: The Directors provide the following update on the patent re-examination and litigation.

On 3 August 2007, Benitec submitted a summary of an Examiner Interview its patent attorneys conducted with the U.S. Patent and Trademark Examiners responsible for Re-examination No. 90/007,247 concerning U.S. Patent No. 6,573,099. A supplemental amendment was also filed for procedural matters and to update the Examiner of proceedings finding before the U.S. Court of Appeals for the Federal Circuit regarding Benitec Australia Ltd. v. Nucleonics, Inc. and the European Patent Office regarding patent application no. EP19990910039. Benitec requested the interview with the Examiner in the normal course of re-examination to discuss the response filed to the Office Action of 24 January 2007.

Also on 3 August 2007, Nucleonics requested that the Federal Circuit reconsider its Benitec Australia Ltd. v. Nucleonics, Inc. decision which was handed down on 20 July 2007. That Federal Circuit decision affirmed the District Court decision dismissing the patent infringement litigation. Benitec believes that Nucleonics' assertion that the District Court and the Federal Circuit both erred in their judgment is incorrect. If requested by the court, Benitec will file materials supporting the decisions by the Federal Circuit and District Court dismissing the lawsuit for lack of jurisdiction.

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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. Its current therapeutic program is focused on Human Immunodeficiency Virus (HIV). For additional information, please visit [www.benitec.com](http://www.benitec.com).