

ASX/Media Release

Benitec wins in US Supreme Court

22 April 2008, Melbourne, Australia: The Directors of Benitec Limited (ASX:BLT) announced today that the US Supreme Court met on Friday to decide on Benitec's Motion of Respondent for Leave to File a Brief in Opposition Under Seal. Today Benitec was not only notified that the motion was granted. The Court also stated that "The petition for a writ of certiorari is denied."

The order may be accessed by the following link:

<http://www.supremecourtus.gov/orders/07ordersofthecourt.html>

"This is fantastic news and completes once and for all the litigation between Nucleonics Inc and Benitec" said Benitec Ltd CEO, Sue MacLeman.

"This litigation has been ongoing since 2004 and we are pleased that with this final confirmation from a US court we can now fully focus our attention, efforts, and resources toward rebuilding Benitec and developing RNAi therapeutics", she added.

Benitec had originally sought dismissal after the Supreme Court's *Integra v. Merck* decision rendered further litigation on the issues in the case nugatory. Nucleonics opposed the dismissal, arguing that a case and controversy remained.

Nucleonics lost at the District Court and appealed the decision to the Court of Appeals for the Federal Circuit. After the Supreme Court expanded Declaratory Judgment jurisdiction in *MedImmune v. Genentech*, the Federal Circuit requested supplemental briefing to determine if the expanded jurisdiction conferred the necessary case and controversy requirements to continue the *Benitec v. Nucleonics* litigation. The Federal Circuit, in a 2-1 decision, ultimately determined the position advanced by Benitec and its US based attorneys was correct, affirming the District Court's decision. Nucleonics then filed in the Supreme Court to have this matter heard and today this request was denied.

Benitec's patented technology, known as DNA directed RNA interference (ddRNAi), employs DNA constructs to induce RNA interference (RNAi) in cells. RNAi is a natural cellular mechanism that selectively knocks down or silences a targeted gene by destroying messenger RNA (mRNA). It is triggered by double stranded RNA, where one strand is identical to the target mRNA. Benitec's DNA directed RNAi (ddRNAi) technology involves inserting a DNA construct into a cell to trigger production of double stranded RNA, resulting in the destruction of the target mRNA and selectively silencing or knocking down the expression of the target gene.

The ddRNAi approach has several potential advantages when compared with alternative gene silencing technologies under development, such as antisense RNA, and synthetic and chemically modified siRNA. These advantages include more versatile delivery options, simultaneous multiple gene disabling, the ability to silence genes in whole organisms (transgenic ddRNAi), and the ability to control the expression and timing of gene silencing.

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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.