



Biotech Daily

Friday February 15, 2013

Daily news on ASX-listed biotechnology companies

- * **ASX, BIOTECH FLAT: USCOM UP 10%, LIVING CELL DOWN 6%**
- * **FEDERAL COURT DISMISSES GENETIC TECHNOLOGIES PATENT CASE**
- * **GREENS, COALITION, INDEPENDENTS WIN NON-BINDING R&D VOTE**
- * **PHARMAXIS H1 REVENUE UP 77% TO \$6m, LOSS UP 6% TO \$21m**
- * **CELLMID H1 REVENUE UP 263% TO \$258k, LOSS DOWN 41%**
- * **CONSEGNA RAISES \$633k**
- * **BIO-MELBOURNE GOES MOBILE FOR DEVICES, DIAGNOSTICS LAB**
- * **MASS MUTUAL REDUCES TO 9% IN NOVOGEN**
- * **TOM ROWE REPLACES NUSEP COMPANY SECRETARY SWAPNA KESKAR**

MARKET REPORT

The Australian stock market slipped 0.06 percent on Friday February 15, 2013 with the S&P ASX 200 down three points to 5,033.9 points.

Nine of the Biotech Daily Top 40 stocks were up, 11 fell, 16 traded unchanged and four were untraded.

Uscom was the best, up two cents or 10 percent to 22 cents with 100,000 shares traded.

Cellmid climbed 8.7 percent; Anteo was up 6.15 percent; Impedimed was up 4.55 percent; Allied Health, Avita and Viralytics rose more than three percent; Cochlear, GI Dynamics and Starpharma were up one percent or more.

Living Cell led the falls, down 0.3 cents or 5.9 percent to 4.8 cents with 109,191 shares traded.

Circadian and Phosphagenics lost more than three percent; Clinuvel, Pharmaxis, Prana and Sirtex shed more than two percent; CSL, Heartware and Reva were down more than one percent; with Medical Developments, Mesoblast and Resmed down by less than one percent.

GENETIC TECHNOLOGIES

Genetic Technologies says it is relieved that the Federal Court case against it and Myriad Genetics over the status of the BRCA1 gene patents has been dismissed.

In the Federal Court in Sydney, Judge John Nicholas dismissed the application brought by Cancer Voices Australia and others against Myriad, Genetic Technologies and others, saying that isolating DNA and RNA was a manner of manufacture.

Justice Nicholas ordered that, pending any appeal, the applicants must pay costs for the case which began in 2010.

In his judgment, Justice Nicholas said the "issue that arises in this case is of considerable importance [and related] ... to the patentability of genes, or gene sequences, and the practice of gene patenting".

Justice Nicholas said the issue to be decided was whether under the Patents Act 1990, a valid patent could be granted for a claim that covered naturally occurring nucleic acid, either deoxyribonucleic acid (DNA) or ribonucleic acid (RNA), that had been isolated, implying that DNA or RNA had been removed from the cellular environment in which it naturally existed and separated from other cellular components.

Justice Nicholas judgment said that the particular gene in question was the BRCA1 human breast and ovarian cancer disposing gene and mutations which might be present in the gene which had been linked to cancers including breast cancer and ovarian cancer. The judgment said that whether or not a valid patent could be granted for a claim to naturally-occurring isolated nucleic acid depended on whether such a substance was "a manner of manufacture".

The judgment said that the applicants contended that claims 1 to 3 of the patent were invalid on the basis that none claim a manner of manufacture and, therefore, did not satisfy the requirements of Section 18(1)(a) of the Act, because each claim comprised isolated nucleic acid that was not materially different to naturally occurring nucleic acid.

"According to the applicants, naturally occurring DNA and RNA, even in isolated form, are products of nature that cannot form the basis of a valid patent," the judgment said.

The judgment said the respondents said the claims were valid because they claimed a product that consisted of an artificial state of affairs, providing a new and useful effect that was of economic significance, and that was all that was required to establish the existence of subject matter that satisfied the requirements of Section 18(1)(a), and relied on evidence said to show that nucleic acid found in a human cell differed chemically, structurally and functionally from the isolated nucleic acid of the disputed claims.

Justice Nicholas concluded that there was "no doubt that naturally occurring DNA and RNA as they exist inside the cells of the human body cannot be the subject of a valid patent, [but] the disputed claims do not cover naturally occurring DNA and RNA as they exist inside such cells".

"The disputed claims extend only to naturally occurring DNA and RNA which have been extracted from cells obtained from the human body and purged of other biological materials with which they were associated," Justice Nicholas said. "The applicants contended that each of the disputed claims was invalid on the sole ground that it was not a claim to a manner of manufacture and therefore did not comply with ... the Act".

"That contention should be rejected ...[and] in my opinion each of the claims is to a manner of manufacture as that expression should now be understood. The amended application will be dismissed with costs," Justice Nicholas said.

Genetic Technologies chief executive officer Alison Mew told Biotech Daily the company was reviewing the judgment before making a detailed comment.

"Genetic Technologies is relieved that the case has been dismissed," Ms Mew said.

Genetic Technologies was unchanged at 8.3 cents.

FEDERAL GOVERNMENT

A Greens motion, seconded by the Coalition and supported by independents, calls on the Federal Government to protect science and research funding.

The motion, moved by Greens deputy leader and Member for Melbourne Adam Bandt and seconded by the Liberal Member for Higgins Kelly O'Dwyer called on the Treasurer to "(a) guarantee that science and research funding will be protected this financial year; and (b) rule out any attempt to defer, freeze or pause Australian Research Council, National Health and Medical Research Council, or other science and research grants in an attempt to achieve a Budget surplus".

The non-binding motion was "passed on the voices" a spokesman for Adam Bandt told Biotech Daily.

Mr Bandt's spokesman said that the Government did not want a division in the House of Representatives to show the strength of support for the motion.

Last week, a suspension of standing orders vote was passed by 74 votes in favor and 66 votes against, but an absolute majority of 76 votes of the 150 members is required to pass a suspension of standing orders motion (BD: Feb 7, 2013).

"Parliament has sent a strong message to the Government about the importance of science and research funding," said Mr Bandt said in a media release.

"Science and research is crucial to our economic prosperity and is the key to sustaining our economy after the mining bubble bursts," Mr Bandt said.

"As the decline in revenue continues to put pressure on the Budget, the government must heed the Parliament's call to protect the Australian Research Council, the National Health and Medical Research Council and other areas of research from any cuts," Mr Bandt said.

The motion called on the House of Representatives to affirm that science was central to the economy and prosperity and Government investment in research was central to maintaining and growing Australia's scientific capacity and noted growing concern in the science and research community over funding; risks to jobs and the economy if funding was not secure; and called on the Treasurer to guarantee that science and research funding would be protected and rule out any attempt to defer, freeze or pause Australian Research Council, National Health and Medical Research Council, or other grants.

PHARMAXIS

Pharmaxis says that revenue for the six months to December 31, 2012, was up 77 percent to \$5,945,000, with net loss after tax up 6.0 percent to \$20,775,000.

Pharmaxis said that the revenue came from sales of Aridol for asthma testing and Bronchitol for cystic fibrosis.

Pharmaxis said that net tangible assets per share fell 32.4 percent to 25 cents, with diluted loss per share down 18.3 percent to 6.7 cents.

The company said that it had cash and cash equivalents of \$64,863,000 at December 30, 2012 compared to \$81,475,000 at June 30, 2012.

Pharmaxis fell 1.5 cents or 2.3 percent to 62.5 cents with 2.2 million shares traded.

CELLMID

Cellmid says hair loss product sales have taken revenue for the six months to December 31, 2012 up 263 percent to \$258,200 with net loss after tax down 41 percent to \$389,430.

Cellmid said that most of the revenue was from sales of the Évolis hair loss products.

The company said its net tangible asset per share was up 2.1 percent to 0.48 cents.

Cellmid was up 0.2 cents or 8.7 percent to 2.5 cents with 14.8 million shares traded.

CONSEGNA GROUP

Consegna says its share purchase plan and placement at 0.4 cents a share raised \$454,500 and \$178,000 respectively for a total of \$632,500.

Consegna said the funds would be used for working capital and to drive the continued commercialization of the Breatheassist products.

Consegna was untraded at 0.8 cents.

BIO-MELBOURNE NETWORK

The Bio-Melbourne Network says it will host its inaugural Devices and Diagnostics Lab on February 21, 2013, a one-day workshop on mobile technology in healthcare.

Bio-Melbourne Network chief executive officer Michelle Gallaher said that patient point-of-care was changing and "increasingly patients are managing their own health, in their own homes using medical devices and health applications on their smart-phones".

"This is an extraordinary market opportunity, where [information and communications technology] meets biotech and clear, monetization models are being implemented and delivering financial returns to investors," Ms Gallaher said.

The Network said that the Devices and Diagnostics Lab would bring together speakers from the information technology sector, engineers, clinicians, medical device companies, investors, researchers and government.

The Network said that sessions included commercialization case studies, investment and future technologies.

The Network said that the Devices and Diagnostics Lab would be held on February 21, at the Spring Street Conference Centre, 1 Spring Street, Melbourne, with registration from 8:30am for a program running from 9am to 5:30pm followed by a networking and technology interactive session until 7:30pm.

For more information and to register go to: <http://www.biomelbourne.org/events/view/260>.

NOVOGEN

Oppenheimer Funds entity Massachusetts Mutual says it has reduced its substantial holding in Novogen from 11,552,712 shares (11.31%) to 11,038,532 shares (9.40%).

The substantial shareholder notice, filed by the Sydney office of law firm, DLA Piper, for the Massachusetts-based MM Asset Management said that between March 22, 2012 and February 12, 2013 the company sold 514,180 shares for \$57,412 or an average price of 11.2 cents a share.

Novogen was up half a cent or 6.25 percent to 8.5 cents.

NUSEP

Nusep has appointed Tom Rowe as company secretary and general counsel, replacing Swapna Keskar as company secretary.

Nusep was untraded at 7.7 cents.