

THE UNIVERSITY OF MICHIGAN

February 17, 2006

REGENTS COMMUNICATION

ACTION REQUEST

Subject: First Amendment to the Patent Option Agreement between the University of Michigan and Incept BioSystems

Action Requested: Approval of the First Amendment to the Patent Option Agreement

Preamble:

A statutory conflict of interest situation was identified by the Office of Technology Transfer while reviewing the technology transfer agreement which then triggered a review by the OVPR Conflict of Interest Review Committee. A plan for management of the possible risks associated with the conflict of interest was then developed by the Committee and agreed to by the parties involved.

This proposed First Amendment to the Patent Option Agreement ("Agreement") falls under the State of Michigan Conflict of Interest Statute because Dr. Shuichi Takayama and Dr. Gary Smith are both employees of the University of Michigan ("University") and are partial owners of Incept BioSystems. The law permits such an Agreement provided it is disclosed to the executive officers and approved in advance by a 2/3 vote of the Regents of the University of Michigan.

Background:

Dr. Shuichi Takayama, an Assistant Professor in Biomedical Engineering, and Dr. Gary Smith, an Associate Professor in the Medical School, are the partial owners of a for-profit company called Incept BioSystems. Incept BioSystems was formed recently to commercialize microfluidics technology for in-vitro fertilization, and desires to option the following technology from the University:

UM File No. 3297, entitled: "Handheld Recirculation System and Customized Media for Microfluidic Cell Culture"

Parties to the Agreement:

The Regents of the University of Michigan and Incept BioSystems

License Terms Include:

The Agreement terms include giving Incept BioSystems a twelve month option (extendable by six months) to negotiate an exclusive license with the right to grant sublicenses. A term sheet for the Patent License Agreement to be negotiated is attached to the Patent Option Agreement that contains terms for a royalty on sales and reimbursement of patenting expenses. The University will retain ownership of the licensed technology and may continue to further develop it and use it internally. No use of University services or facilities, nor any assignment of University employees, is obligated or contemplated under the

agreement. Standard disclaimers of warranties and indemnification apply, and the contract may be amended by consent of the parties. University procedures for approval of these changes will be followed and additional review by the Conflict of Interest Committee will be done as appropriate.

Pecuniary Interest:

The pecuniary interests of Drs. Takayama and Smith arise from their ownership interest in Incept Biosystems. They have waived any personal participation in the sharing of revenue received by the University.

Net Effect:

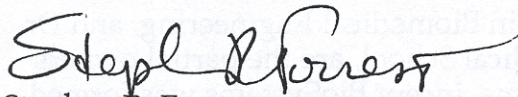
The Office of Technology Transfer has negotiated and finalized the terms of the First Amendment to the Patent Option Agreement for patents related to UM OTT File No. 3297 for all fields of use.

Incept BioSystems will obtain use and commercialization rights to the above listed University technology.

Recommendations:

This matter has been reviewed and approved by the OVPR Conflict of Interest Review Committee. In light of this disclosure and our finding that the Agreement was negotiated in conformance with standard University practices, I recommend that the Regents approve the Option Agreement between the University and Incept BioSystems.

Respectfully Submitted,



Stephen R. Forrest  
Vice President for Research

February 2006