

THE UNIVERSITY OF MICHIGAN

REGENTS COMMUNICATION

Approved by the Regents  
September 17, 2009

ACTION REQUEST

Subject: Option Agreement between the University of Michigan and OcuSciences, Inc.

Action Requested: Approval of Option Agreement

Preamble:

A statutory conflict of interest situation was identified by the Office of Technology Transfer while reviewing the technology transfer agreement. This then triggered a review by the Medical School Conflict of Interest Board. A plan for management of the possible risks associated with the conflict of interest was then developed and approved by this Board and agreed to by the parties involved in this plan.

This proposed option agreement ("Agreement") falls under the State of Michigan Conflict of Interest Statute because Professors Victor Elner and Howard Petty are both employees of the University of Michigan ("University") and partial owners and officers of OcuSciences, Inc. 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:

Drs. Howard Petty and Victor Elner, both Professors in Ophthalmology and Visual Sciences, are the partial owners of a for-profit company called OcuSciences, Inc. ("Company"). Drs. Elner and Petty also are officers of the Company. The Company was formed to commercialize certain devices and methods for discovering and developing new drugs and diagnosing the health of the eye and recently signed a license agreement with the University. The Company now desires to obtain an option to license new technology from the University:

UM OTT File No. 4448, entitled: "Modulation of a Caspase in Diseases with Inflammation, Endoplasmic Reticulum Stress, and/or Apoptosis" (Victor Elner, Susan Elner, and Zong-Mei Bian)

Parties to the Agreement:

The Regents of the University of Michigan and OcuSciences, Inc.

Option Terms Include:

Option terms include giving the Company an exclusive option to obtain a royalty-bearing license to the technologies. The University will retain ownership of the optioned 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 Agreement may be amended by consent of the parties. University procedures for approval of these changes will be followed and additional conflict of interest review will be done as appropriate.

Pecuniary Interest:

The pecuniary interests of Drs. Elnor and Petty arise from their ownership interest in OcuSciences, Inc.

Net Effect:

The Office of Technology Transfer has negotiated and finalized the terms of an option agreement for patents related to UM OTT Files No 4448 for the fields of use of ophthalmic devices and therapeutics. The Company will obtain option rights to the above listed University technology.

Recommendations:

This matter has been reviewed and approved by the Medical School Conflict of Interest Board. In light of this disclosure and our finding that the Agreement was negotiated in conformance with standard University practices, I recommend that the Board of Regents approve the Option Agreement between the University and OcuSciences, Inc.

Respectfully Submitted,



Stephen R. Forrest  
Vice President for Research

September 2009