

Your reference: 44950

12 January 2022

Ms Melissa Kostopoulos
Compliance Adviser, Listings Compliance (Melbourne)
ASX Limited

By email: melissa.kostopoulos@asx.com.au

Dear Madam

RE: Alterity Therapeutics Limited ('ATH'): Aware Query

We refer to your letter dated 7 January 2022 regarding the Announcement by Alterity Therapeutics Limited ("the Company" of "ATH") of 6 January 2022 regarding the Patent Grant Information described in your letter (as each of those terms are used in your letter). The Company's responses to the numbered questions set out in the letter are as follows:

1. *Does ATH consider the Patent Grant Information to be information that a reasonable person would expect to have a material effect on the price or value of its securities?*

No, the Company did not consider the Patent Grant Information to be information that a reasonable person would expect to have a material effect on the price or value of its securities.

2. *If the answer to question 1 is 'no', please advise the basis for that view, commenting specifically on why ATH submitted the announcement as 'market sensitive'.*

The Company was of the view at the time of the grant of the patent that the market had already been informed of the critical step in the US Patent and Trademark Office's process of allowing the patent application. The allowance of the patent application was announced to ASX on 4 August 2021 in the announcement entitled "New US Patent Expands Neurodegeneration Treatment Portfolio". The Company considered that the market had already taken that announcement into account and that the formal administrative step of the grant of the patent after its allowance was anticipated not, in itself, to have a material effect. The announcement of 6 January 2022 was made during the review of patents and patent applications as part of preparation for periodic reporting including an Appendix 4C anticipated to be finalised and released later this month, and was released to provide an update on the change in formal status of the application since the 2021 Annual Report. The marking of the announcement as price sensitive was an error.

3. *When did ATH first become aware of the Patent Grant Information?*

The Company became aware of the grant of the patent upon receipt of an advance issue notification from the US Patent and Trademark Office on 23 October 2021.

4. [Not applicable.]

5. *Please confirm that ATH is complying with the Listing Rules and, in particular, Listing Rule 3.1.*

Yes, the Company confirms it is complying with the Listing Rules, and in particular, Listing Rule 3.1.

6. Please confirm that ATH's responses to the questions above have been authorised and approved in accordance with its published continuous disclosure policy or otherwise by its board or an officer of ATH with delegated authority from the board to respond to ASX on disclosure matters.

This response has been authorised by the Chairman, Geoffrey Kempler.

Further to the above, the Company has identified that future announcements regarding administrative or formal steps in patent application processes are to be reviewed to ensure they refer to relevant prior announcements, and will amend its processes for preparation and release of such announcements accordingly.

Yours faithfully
ALTERITY THERAPEUTICS LIMITED



PHILLIP HAINS
COMPANY SECRETARY



7 January 2022

Reference: 44950

Mr Phillip Hains
Company Secretary
Alterity Therapeutics Limited
Level 3, 62 Lygon Street
Carlton, Victoria 3053

By email: Phillip@thecfo.com.au

Dear Mr Hains

Alterity Therapeutics Limited ('ATH'): Aware Query

ASX Limited ('ASX') refers to the following:

- A. ATH's announcement titled 'Alterity Therapeutics Granted New US Patent for Compounds for Neurodegenerative Diseases including Parkinson's and Alzheimers' released on the ASX Market Announcements Platform ('MAP') on 6 January 2022 (the 'Announcement'), which disclosed the information set out below (the 'Patent Grant Information'):

[ATH] 'today announced the United States Patent and Trademark Office (USPTO) has granted a new patent (No. 11,155,547) to Alterity.

The composition of matter patent, entitled "Compounds for and Methods of Treating Diseases", underwent prioritized examination by the USPTO...

The patent will provide Alterity with exclusivity over the compounds claimed in the patent through 2041, thus providing a strong basis for drug development and commercialization in major neurodegenerative diseases.'

ASX notes that the Announcement was marked as 'market sensitive' when it was released by ATH.

- B. Online records for patent 11,155,547, available on the United States Patent and Trademark Office ('USPTO') website¹, which appear to show that the patent was granted on 26 October 2021 (US time).
- C. Listing Rule 3.1, which requires a listed entity to immediately give ASX any information concerning it that a reasonable person would expect to have a material effect on the price or value of the entity's securities.
- D. The definition of 'aware' in Chapter 19 of the Listing Rules, which states that:
- 'an entity becomes aware of information if, and as soon as, an officer of the entity (or, in the case of a trust, an officer of the responsible entity) has, or ought reasonably to have, come into possession of the information in the course of the performance of their duties as an officer of that entity' and section 4.4 in Guidance Note 8 Continuous Disclosure: Listing Rules 3.1 – 3.1B 'When does an entity become aware of information.'*
- E. Listing Rule 3.1A, which sets out exceptions from the requirement to make immediate disclosure, provided that each of the following are satisfied.

¹ <https://patft.uspto.gov/netaagi/nph-Parser?Sect1=PTO1&Sect2=HITOFF&d=PALL&p=1&u=%2Fnetahtml%2FPTO%2Fsrchnum.htm&r=1&f=G&l=50&s1=11,155,547.PN.&OS=PN/11,155,547&RS=PN/11,155,547>

3.1A Listing rule 3.1 does not apply to particular information while each of the following is satisfied in relation to the information:

3.1A.1 One or more of the following applies:

- It would be a breach of a law to disclose the information;
- The information concerns an incomplete proposal or negotiation;
- The information comprises matters of supposition or is insufficiently definite to warrant disclosure;
- The information is generated for the internal management purposes of the entity; or
- The information is a trade secret; and

3.1A.2 The information is confidential and ASX has not formed the view that the information has ceased to be confidential; and

3.1A.3 A reasonable person would not expect the information to be disclosed.'

F. ASX's policy position on the concept of 'confidentiality', which is detailed in section 5.8 of Guidance Note 8 *Continuous Disclosure*: Listing Rules 3.1 – 3.1B. In particular, the Guidance Note states that:

'Whether information has the quality of being confidential is a question of fact, not one of the intention or desire of the listed entity. Accordingly, even though an entity may consider information to be confidential and its disclosure to be a breach of confidence, if it is in fact disclosed by those who know it, then it ceases to be confidential information for the purposes of this rule.'

Questions and Request for information

Having regard to the above, ASX asks ATH to respond separately to each of the following questions and requests for information:

1. Does ATH consider the Patent Grant Information to be information that a reasonable person would expect to have a material effect on the price or value of its securities?
2. If the answer to question 1 is 'no', please advise the basis for that view, commenting specifically on why ATH submitted the announcement as 'market sensitive'.
3. When did ATH first become aware of the Patent Grant Information?
4. If the answer to question 1 is 'yes' and ATH first became aware of the Patent Grant Information before the relevant date, did ATH make any announcement prior to the relevant date which disclosed the Patent Grant Information? If so, please provide details. If not, please explain why the Patent Grant Information was not released to the market at an earlier time, commenting specifically on when you believe ATH was obliged to release the Patent Grant Information under Listing Rules 3.1 and 3.1A and what steps ATH took to ensure that the Patent Grant Information was released promptly and without delay.
5. Please confirm that ATH is complying with the Listing Rules and, in particular, Listing Rule 3.1.
6. Please confirm that ATH's responses to the questions above have been authorised and approved in accordance with its published continuous disclosure policy or otherwise by its board or an officer of ATH with delegated authority from the board to respond to ASX on disclosure matters.

When and where to send your response

This request is made under Listing Rule 18.7. Your response is required as soon as reasonably possible and, in any event, by no later than **9:30 AM AEDT Thursday, 13 January 2022**. You should note that if the information

requested by this letter is information required to be given to ASX under Listing Rule 3.1 and it does not fall within the exceptions mentioned in Listing Rule 3.1A, ATH's obligation is to disclose the information 'immediately'. This may require the information to be disclosed before the deadline set out in the previous paragraph and may require ATH to request a trading halt immediately.

Your response should be sent to me by e-mail at ListingsComplianceMelbourne@asx.com.au. It should not be sent directly to the ASX Market Announcements Office. This is to allow me to review your response to confirm that it is in a form appropriate for release to the market, before it is published on the ASX Market Announcements Platform.

Trading halt

If you are unable to respond to this letter by the time specified above, you should discuss with us whether it is appropriate to request a trading halt in ATH's securities under Listing Rule 17.1. If you wish to request a trading halt, you must tell us:

- the reasons for the trading halt;
- how long you want the trading halt to last;
- the event you expect to happen that will end the trading halt;
- that you are not aware of any reason why the trading halt should not be granted; and
- any other information necessary to inform the market about the trading halt, or that we ask for.

We require the request for a trading halt to be in writing. The trading halt cannot extend past the commencement of normal trading on the second day after the day on which it is granted. You can find further information about trading halts in Guidance Note 16 *Trading Halts & Voluntary Suspensions*.

Suspension

If you are unable to respond to this letter by the time specified above, ASX will likely suspend trading in ATH's securities under Listing Rule 17.3.

Listing Rules 3.1 and 3.1A

In responding to this letter, you should have regard to ATH's obligations under Listing Rules 3.1 and 3.1A and also to Guidance Note 8 *Continuous Disclosure*: Listing Rules 3.1 – 3.1B. It should be noted that ATH's obligation to disclose information under Listing Rule 3.1 is not confined to, nor is it necessarily satisfied by, answering the questions set out in this letter.

Release of correspondence between ASX and entity

We reserve the right to release a copy of this letter, your reply and any other related correspondence between us to the market under Listing Rule 18.7A.

Questions

If you have any questions in relation to the above, please do not hesitate to contact me.

Yours sincerely

Melissa Kostopoulos
Compliance Adviser, Listings Compliance (Melbourne)