

## UAH Settles Intellectual Property Litigation

The University of Alabama in Huntsville has settled intellectual property litigation against Nektar Therapeutics, Inc., Nektar Therapeutics AL, Inc., and Dr. J. Milton Harris for \$25,000,000.00. Under the terms of the settlement the defendants paid UAH an initial payment of \$15,000,000.00. Additional payments of \$1,000,000.00 are due from Nektar Therapeutics, Inc., on the first day of July for the next 10 years. All claims brought in the lawsuit have been dismissed.

In November of 1990, Dr. J. Milton Harris and Dr. Sedaghat-Herati filed a patent application for "Preparation and use of polyethylene glycol propionaldehyde." The patent, which is known as the "714 patent," was issued in October of 1993, and the rights to the patent were properly assigned to UAH under the provisions of the Patent Policy of the University of Alabama Board of Trustees. In 1992, Dr. Harris had formed a faculty start-up company, Shearwater Polymers, Inc. In June of 1993, Shearwater entered into a license agreement with UAH for the technology embodied in the "714 patent." During the following years, Dr. Harris was very successful in his operation of Shearwater, and the license agreement was considered a success at UAH. The successful cancer treatment drug Neulasta, produced by the pharmaceutical giant, Amgen, utilizes the UAH and Harris developed pegylation technology. In 2002 Shearwater was sold to Inhale Therapeutic Systems, Inc. Shortly after the acquisition, Inhale changed its name to Nektar Therapeutics, Inc., and Shearwater became Nektar Therapeutics AL, Inc.

The litigation was precipitated when Nektar called UAH in May of 2005 and announced its unilateral termination of all payments under the 1993 license agreement. In order to insure venue in the Alabama courts, UAH filed suit in federal court on July 13, 2005. The initial complaint alleged breach of license agreement and patent infringement against Nektar Therapeutics, Inc., and Nektar Therapeutics AL, Inc. During its investigation following the filing of the initial complaint, UAH discovered that at least 28 additional patents, previously unknown to UAH, had been filed by Dr. Harris during the time that he was associated with the University. UAH contended that Dr. Harris was obligated by the terms of the Patent Policy to disclose and assign these patents to UAH and had failed to do so. Accordingly, UAH amended its complaint, adding claims against Dr. Harris, on August 3, 2005. These additional claims were responsible for the bulk of the proceeds recovered in the settlement.

This litigation and settlement confirm the commitment of UAH and the Board of Trustees to full compliance with and reinforcement of the Board's Patent Policy. The present intention of the University is to add most of the settlement proceeds to the University's endowment, thereby enhancing the entire University.