

IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

LEWIS J. RUBIN,

Plaintiff,

v.

UNITED THERAPEUTICS CORPORATION,
LUNG BIOTECHNOLOGY INC. (formerly known
as LUNG RX, INC.),

Address: 1040 Spring Street
Silver Spring, Maryland 20910

Defendants.

Civil Action No. _____

**COMPLAINT AND DEMAND FOR JURY
TRIAL**

Case# 431672	
NEW CASE	
CV CLERK FEE-	50.00
MD LEGAL SERV	55.00
RIF-NEW CASE	30.00
TOTAL	135.00
FILED	13/04/16
BY	HR
FILE #	110
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Plaintiff Lewis J. Rubin, MD ("Dr. Rubin"), by his undersigned attorneys, for his Complaint, against United Therapeutics Corporation ("UTC") and Lung Biotechnology Inc. ("Lung Bio"), formerly known as Lung Rx, Inc. ("Lung-Rx"), a subsidiary of UTC, alleges as follows:

Introduction

1. This is an action under Maryland law for constructive fraud, negligent misrepresentation, breach of contract, and reformation of patent application assignments which mistakenly transferred to UTC Dr. Rubin's joint ownership interest in U.S. Patent No. 9,339,507 issued May 17, 2016 ("the '507 patent"), U.S. Patent No. 9,358,240 issued June 7, 2016 ("the '240 patent") and related U.S. and foreign counterparts. The '507 and '240 patents are both entitled "Trepostinil Administration By Inhalation" and directed to treatments for pulmonary arterial hypertension ("PAH"). (Copies of the '507 and '240 patents are annexed as **Exhibits 1 and 2**).

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2. Dr. Rubin conceptualized the inventions claimed in the '507 and '240 patents and, thereafter, entered into a Services Agreement dated September 23, 2003 ("2003 Services Agreement") with UTC's subsidiary Lung-Rx (now Lung-Bio) to provide consulting services for further development of his inventions. Under the 2003 Services Agreement and subsequent consulting agreements that Dr. Rubin entered into with UTC and Lung-Bio, Dr. Rubin retained joint ownership with UTC in his inventions claimed in the '507 and '240 patents. The '507 and '240 patents as issued, in error, reflect an assignment to UTC of Dr. Rubin's joint ownership interests in the patents. This action seeks reformation of the assignment of the entirety of Dr. Rubin's rights in the '507 and '240 patents to UTC to reflect the parties' agreement that Dr. Rubin would assign only inventions made under the 2003 Services Agreement and therefore retain an undivided interest with UTC in the patents.

3. Martine Rothblatt ("Rothblatt"), a business entrepreneur and attorney, founded UTC and Lung-Bio in 1996 in order to develop therapies for orphan diseases such as PAH. At all relevant times, Rothblatt held the positions of Chairman and CEO of UTC, and President and CEO of Lung-Bio. From as early as 1995, prior to Dr. Rubin's affiliation with defendants, to termination of Dr. Rubin's affiliation with defendants in 2016, Rothblatt and Dr. Rubin had a close personal and business relationship (a "Confidential Relationship"). Rubin acted at the direction of Rothblatt and in reliance on his relationship of trust with Rothblatt and defendants in executing the assignment documents which are the subject of the claims in this action.

The Parties

4. Dr. Rubin is an Emeritus Professor of Medicine, University of California, San Diego School of Medicine, La Jolla, CA, and presently Adjunct Professor of Medicine, Columbia

University College of Physicians and Surgeons, New York, NY. Dr. Rubin resides at 146 West 57th Street, Apt. 67B, New York, NY 10019.

5. UTC is a corporation organized and existing under the laws of the State of Delaware, having a place of business at 1040 Spring Street, Silver Spring, Maryland 20910.

6. Lung-Bio is a corporation organized and existing under the laws of the State of Delaware, having a place of business at 1040 Spring Street, Silver Spring, Maryland 20910. Lung-Bio is a wholly-owned subsidiary of UTC and was formerly known as Lung-Rx.

Jurisdiction and Venue

7. This Court has jurisdiction over the defendants pursuant to MD. Code, Cts. & Jud. Proc., §§ 6-102(a) and 6-103(b).

8. Venue is proper pursuant to Md. Code, Cts. & Jud. Proc., § 6-201(a).

Background

Lewis J. Rubin, MD -- Curriculum Vitae

9. Dr. Rubin is a Professor of Medicine, Emeritus and former Director of the Division of Pulmonary and Critical Care Medicine at the University of California, San Diego School of Medicine, and an Adjunct Professor of Medicine at Columbia University College of Physicians and Surgeons. He has published over 250 peer-reviewed scientific papers and over fifty book chapters, and edited six books dealing with pulmonary circulation.

10. Dr. Rubin has been the Principal Investigator or a Steering Committee member for the clinical trials leading to regulatory approval of all currently approved PAH medical therapies. He has served on the editorial boards of the Annals of Internal Medicine and the American Journal of Respiratory and Critical Care Medicine, and as senior consulting editor for the Journal of the

American College of Cardiology and the Journal of Heart and Lung Transplantation. Dr. Rubin has also served as an advisor to the NIH, the FDA, and numerous medical and scientific organizations worldwide. He is a member of the American Society of Clinical Research and the recipient of the Dickinson Richards Memorial Award from the American Heart Association, the Simon Dack Award from the American College of Cardiology, the College Medalist Award from the American College of Chest Physicians, the Lifetime Achievement Award from the Pulmonary Vascular Research Institute, and is listed in Thomson Reuters' list of the Most Influential Researchers in the World in 2014 and 2015. (Dr. Rubin's CV is annexed as **Exhibit 3**).

The PPH Cure Foundation

11. In or about 1995, Martine Rothblatt, a co-founder of defendants, organized the PPH Cure Foundation, a non-profit foundation to promote research into PAH. Rothblatt is an attorney and an entrepreneur who had substantial success in the business world, including the organization of SiriusXM Satellite Radio. Treatments for PAH were of particular interest to Rothblatt because a close relative suffered from this life threatening disease.

12. Dr. Rubin and a colleague, Jason Yuan, submitted a grant proposal to the PPH Cure Foundation to further PAH research, which led to a more than twenty (20) year friendship and business association between Dr. Rubin and Rothblatt, and consulting work with UTC and its subsidiaries in the development of PAH drugs.

13. Dr. Rubin and his colleague Jason Yuan were the first recipients of a PPH Cure Foundation research grant for 1996-1997 to fund research in the PAH field. Dr. Rubin contributed the cash prize awarded to him back to the PPH Cure Foundation for furthering research in this area. Dr. Rubin's stature in the medical field is reflected in news accounts of the PPH Cure Foundation

grant;

WASHINGTON, May 15 /PRNewswire/ -- Dr. Lewis J. Rubin, Head of the Division of Pulmonary and Critical Care Medicine at the University of Maryland School of Medicine, was named today the winner of the PPH Cure Foundation's 1997 Scientific Progress Award. The Award is issued each year to the researcher deemed to have made an outstanding contribution toward a cure for Primary Pulmonary Hypertension (PPH).

"We are most pleased to be able to issue this award to Dr. Rubin," said Martine Rothblatt, Program Director of the PPH Cure Foundation. "His widely recognized scientific research, robust clinical practice, esteemed teaching ability, pioneering scholarly publications and public interest speaking all combine in a rather unprecedented manner to demonstrate his outstanding leadership in the search for a PPH cure."

PPH is a serious, life-threatening disease of the smallest blood vessels within the lungs. The disease blocks blood flow through the pulmonary capillaries, resulting in dizziness, exhaustion and ultimately right heart failure. Most patients are young women, and left untreated the disease generally causes death within three years of diagnosis. The cause of the disease in most people is unknown, although diet drugs such as Redux have been associated with a greatly increased risk of getting PPH.

Dr. Rubin, a Professor of Medicine and Physiology at the University of Maryland School of Medicine, is a graduate of the Albert Einstein College of Medicine and Yeshiva University, in New York. After post-graduate work at Duke University Medical Center, he taught at the University of Texas Health Science Center. He is the co-editor (with Stuart Rich, MD) of the only textbook on Primary Pulmonary Hypertension (Marcel Dekker 1997), and the author of over one hundred articles, monographs, book chapters and other publications on serious respiratory disorders. Dr. Rubin was principally involved in achieving 1996 FDA approval of Glaxo-Wellcome's FLOLAN, the first drug to be approved for treatment of PPH and is a principal investigator in other ongoing efforts to develop new medical treatments for PPH. His trailblazing 1996 Abstract paper, Dysfunctional Voltage-Gated Potassium Channels in the Pulmonary Artery Smooth Muscle Cells of Patients with PPH, won the American Heart Association's highest award for Cardiopulmonary Abstract Papers.

Dr. Rubin asked that the Foundation divert the cash portion of the Scientific Progress Award to the purpose of funding his colleagues' research. "Working with my collaborators and, of course our patients," said Dr. Rubin, "gives me more than enough gratification and incentive."

SOURCE PPH Cure Foundation

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