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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91252778
Party	Defendant Imvax, Inc.
Correspondence Address	ROBERT C PFEILSTICKER JR PFEILSTICKER LAW PC PO BOX 1321 NEWTOWN, PA 18940 UNITED STATES bob@pfeilsticker.com 215-757-1230
Submission	Answer and Counterclaim
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Signature	/alfred w. zaher/
Date	04/20/2020
Attachments	Imvax Answer and Counterclaim.pdf(218417 bytes) Exhibit A - Cert of Incorp.pdf(716246 bytes) Exhibit B - Proof of Domain Ownership.pdf(253227 bytes) Exhibit C - PA Foreign Corp Cert.pdf(383893 bytes) Exhibit D - TJU Impact Report.pdf(1883818 bytes) Exhibit E - Slide Deck final.pdf(5464442 bytes) Exhibit F - Paychex Enrollment.pdf(2615615 bytes) Exhibit G - Life Sciences Photo.pdf(55643 bytes) Exhibit H - Letter.pdf(96034 bytes) Exhibit I - Email Chain.pdf(347516 bytes)

Registration Subject to the filing

Registration No.	5706102	Registration date	03/26/2019
International Registration No.	NONE	International Registration Date	NONE
Registrant	Enesi Pharma Limited 120 A&B Olympic Avenue, Milton Park UNITED KINGDOM		

Goods/Services Subject to the filing

Class 005. First Use: 0 First Use In Commerce: 0
All goods and services in the class are requested, namely: Pharmaceutical and veterinary preparations and substances for the treatment of and protection against infectious and autoimmune diseases; pharmaceutical and veterinary preparations and substances forthe treatment of or protection against viral, metabolic, musculoskeletal, cardiovascular, genitourinary, central nervous system, endocrinological, immunological, obstetrical, gynaecological, oncological, respiratory, neurological, gastrointestinal, hormonal, dermatological and psychiatric related diseases and disorders; prophylactic pharmaceutical and veterinary preparations and substances against infectious and autoimmune diseases; vaccines, prophylactic vaccines, therapeutic vaccines; contraceptive preparations and sub-

stances
Class 010. First Use: 0 First Use In Commerce: 0 All goods and services in the class are requested, namely: Surgical, medical, dental and veterinary apparatus and instruments, namely, drug delivery systems for delivery of drugsand vaccines; needle-free drug deliverysystems sold empty; actuator devices, namely, medical solid dose injectors sol-dempty for injecting pharmaceutical and veterinary preparations into the skin; drug cassettes in the nature of drug and vaccine delivery systems sold empty; medical needle-free injection systems, needle-free injectors, namely, injection devices for administering drugs and vaccines sold empty; drug delivery injection devices for administering drugs and vaccines, namely, medical injectors, needle-free injectors and structural parts therefor sold empty; actuator devices for use in drug deliv-ery devices, namely, handheld spring-powered devices in the nature of needle-free injection systems for injecting pharmaceutical and veterinary preparations into the skin sold empty; drugcassettes for use in drug delivery devices in the nature of drug and vaccine delivery systems sold empty to contain pharmaceutical preparations and substances for therapeutic, prophylactic and diagnostic use; re-placement parts for all the aforesaid goods

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

ENESI PHARMA LIMITED, Opposer, v. IMVAX, INC., Applicant.	Opposition No. 91252778 IMVAX (Serial No. 87/934,880) Interlocutory Attorney ANN LINNEHAN VOGLER

APPLICANT'S ANSWER AND COUNTERCLAIM FOR CANCELLATION OF OPPOSER'S REGISTRATION NO. 5706102 FOR IMPLAVAX

ANSWER

Imvax, Inc. ("Applicant"), for its Answer to the Notice of Opposition ("Notice") of Enesi Pharma Limited ("Opposer"), states as follows:

1. Applicant avers that the records of the United States Patent and Trademark Office speak for themselves and otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 1 of the Notice.

2. Applicant avers that the records of the United States Patent and Trademark Office speak for themselves and otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 2 of the Notice.

3. Applicant avers that the records of the United States Patent and Trademark Office speak for themselves and otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 3 of the Notice.

4. Applicant avers that the records of the United States Patent and Trademark Office speak for themselves and otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 4 of the Notice.

5. Applicant avers that the records of the United States Patent and Trademark Office speak for themselves. Applicant admits that it filed an application for federal registration of the IMVAX Mark on May 24, 2018, pursuant to 15 U.S.C. § 1051(b).

6. Applicant avers that the records of the United States Patent and Trademark Office speak for themselves. Applicant admits that it filed an application for federal registration of the IMVAX Mark on May 24, 2018, pursuant to 15 U.S.C. § 1051(b).

7. Applicant admits that Opposer's filing date and priority date predate May 24, 2018, but otherwise denies the allegations set forth in paragraph 7 of the Notice.

8. Denied.

9. Denied.

10. Applicant admits that Opposer's Mark and Applicant's IMVAX mark each include the letters "I," "M," "V," "A," and "X."

11. Denied.

12. Applicant denies Opposer's beliefs and allegations set forth in paragraph 12 of the Notice. Broad and dominating trademark protection is not available for "IM …VAX" trademarks in the immunology/vaccine related space. Applicant notes that a number of trademarks variously containing the letter groupings "I" and "M" and "V," "A" and "X" have long coexisted on the USPTO's principal register in the immunology/vaccine related space – including (i) IMOVAX for "vaccines for human use" in IC 005 (Registration No. 1537890, May 9, 1989) owned by Sanofi Pasteur Corporation France, and (ii) IVAX for "metered dose inhalers

for therapeutic use, sold empty" in IC 010 (Registration No. 2986008, August 16, 2005) owned by Ivax LLC, a subsidiary of Teva Pharmaceuticals. Indeed, both Sanofi and Ivax have agreed with Applicant that their respective marks can coexist with Applicant's IMVAX mark without likelihood of confusion and have consented to suspend their co-pending oppositions against Applicant's IMVAX mark (i.e., Opposition Nos. 91252792 and 91252789) pending the final determination of this Opposition.

13. The allegations of paragraph 13 of the Notice state a legal conclusion to which no response is required. To the extent a response is required, Applicant denies the allegations of paragraph 13 of the Notice.

14. The allegations of paragraph 14 of the Notice state a legal conclusion to which no response is required. To the extent a response is required, Applicant denies the allegations of paragraph 14 of the Notice.

15. The allegations of paragraph 15 of the Notice state a legal conclusion to which no response is required. To the extent a response is required, Applicant denies the allegations of paragraph 15 of the Notice. Applicant specifically denies that Opposer has suffered, or will suffer, any damage or injury as a result of Applicant's use or registration of its IMVAX mark.

WHEREFORE, Applicant demands judgment dismissing the Notice of Opposition with prejudice and granting to Applicant such other and further relief as the Board may deem just and proper.

COUNTERCLAIM
PETITION FOR CANCELLATION

Applicant/Counterclaimant, Imvax, Inc. ("Applicant" or "Imvax"), a Delaware corporation having a place of business at #440, 601 Walnut Street, Philadelphia, PA 19106, through its undersigned counsel, petitions to cancel U.S. Trademark Registration No. 5706102

("Opposer's Registration") for the word "IMPLAVAX" ("Opposer's Mark"), which was registered on March 26, 2019 to Opposer/Respondent Enesi Pharma Limited, a United Kingdom limited company with an address of 45B Western Ave., Milton Park Abingdon, Oxfordshire, OX14 4RU, United Kingdom ("Opposer" or "Enesi"). This Petition is timely filed within five years from the U.S. registration date of Opposer's Mark. 15 U.S.C. § 1064. As grounds for its Petition to cancel, pursuant to § 14 of the Lanham Trademark Act of 1946, 15 U.S.C. § 1064, Applicant alleges as follows:

1. Applicant owns pending Application Serial No. 87/934,880 for registration of the mark IMVAX, for "Biological preparations for the treatment of cancer; Pharmaceutical preparations for the treatment of cancer; Pharmaceutical products for the prevention and treatment of cancer" in International Class 005; "Medical apparatus for introducing pharmaceutical preparations into the human body; Medical apparatus for use in treating cancer" in International Class 010; "Research and development in the pharmaceutical and biotechnology fields; Providing medical and scientific research information in the field of pharmaceuticals and clinical trials" in International Class 042; and "Providing a web site featuring medical information" in International Class 042.

2. Opposer's Registration for Opposer's Mark covers "Pharmaceutical and veterinary preparations and substances for the treatment of and protection against infections and autoimmune diseases; pharmaceutical and veterinary preparations and substances for the treatment of or protection against viral, metabolic, musculoskeletal, cardiovascular, genitourinary, central nervous system, endocrinological, immunological, obstetrical, gynaecological, oncological, respiratory, neurological, gastrointestinal, hormonal, dermatological and psychiatric related diseases and disorders; prophylactic pharmaceutical and veterinary

preparations and substances against infectious and autoimmune diseases; vaccines, prophylactic vaccines, therapeutic vaccines; contraceptive preparations and substances" in International Class 005, and "Surgical, medical, dental and veterinary apparatus and instruments, namely, drug delivery systems for delivery of drugs and vaccines; needle-free drug delivery systems sold empty; actuator devices, namely, medical solid dose injectors sold empty for injecting pharmaceutical and veterinary preparations into the skin; drug cassettes in the nature of drug and vaccine delivery systems sold empty; medical needle-free injection systems, needle-free injectors, namely, injection devices for administering drugs and vaccines, namely, medical injectors, needle-free injectors and structural parts therefor sold empty; actuator devices for use in drug delivery devices, namely, handheld spring-powered devices in the nature of needle-free injection systems for injecting pharmaceutical and veterinary preparations into the skin sold empty; drug cassettes for use in drug delivery devices in the nature of drug and vaccine delivery systems sold empty to contain pharmaceutical preparations and substances for therapeutic, prophylactic and diagnostic use; replacement parts for all the aforesaid goods" in International Class 010.

3. Opposer's Registration issued from Application Serial No. 79/233,134 filed pursuant to § 66(a) of the Lanham Trademark Act (15 U.S.C. § 1141f) based on International Registration No. 1,404,355 and claims a foreign priority date of September 21, 2017.

4. On information and belief, as of the registration date of Opposer's Registration, Opposer has not used Opposer's Mark in commerce in the United States in connection with the goods in International Class 005 covered by Opposer's Registration.

5. On information and belief, as of the registration date of Opposer's Registration, Opposer has not used Opposer's Mark in commerce in the United States in connection with the goods in International Class 010 covered by Opposer's Registration.

6. Applicant, however, has been using its IMVAX mark in commerce in the United States for years, including before the September 21, 2017 priority date of Opposer's Registration, including for goods and services recited in Applicant's Application Serial No. 87/934,880.

7. Indeed, Applicant's use of its IMVAX mark began at least as early as 2015, when Imvax, Inc. was incorporated in the state of Delaware. *See* Ex. A, Certificate of Incorporation. Since at least that date, Applicant has continuously been performing business operations under the IMVAX name.

8. Applicant registered an internet domain in the "IMVAX" name in 2015 and maintains that registration to this day. *See* Ex. B, Proof of Domain Ownership.

9. Applicant maintains a website prominently displaying the IMVAX name at https://www.imvax.com/.

10. Applicant was registered to do business in the state of Pennsylvania as a foreign corporation on October 20, 2016. *See* Ex. C, Foreign Registration Statement.

11. Since at least as early as 2016, Applicant has provided research services under the IMVAX name focused on the development of novel patient-specific vaccines and immunotherapy strategies for the treatment of malignant gliomas and other cancers with unmet medical needs. *See* https://www.imvax.com/.

12. In or about 2016, Applicant partnered with Strategic Compliance International Inc. ("SCI") for regulatory support in the development of an orphan drug therapy product for glioma indication. SCI assisted Applicant with regulatory applications and the organization of

clinical trials designed to research the safety and efficacy of cancer treatments developed by Applicant.

13. Applicant also partnered with Thomas Jefferson University to conduct clinical trials. Thomas Jefferson University, *New Glioblastoma Vaccine Shows Promise in Clinical Trial*, https://hospitals.jefferson.edu/news/2019/04/glioblastoma-vaccine-shows-promise-in-clinical-trial.html (April 1, 2019); *see also* Ex. D, Impact Report. Additionally, Applicant and Thomas Jefferson University entered into a patent licensing agreement in June 2016. *See* Ex. E, Imvax Slide Deck.

14. Indeed, by 2016, Applicant had made significant, publicly recognized contributions to cancer research. *See* Ex. E, Imvax Slide Deck. Applicant developed a three-pronged therapeutic platform for treatment of cancers such as glioblastoma. *Id.* Applicant has performed at least three Phase I clinical trials testing the safety and efficacy of this platform. *Id.*; *see also Antisense 102: Pilot Immunotherapy for Newly Diagnosed Malignant Glioma*, NATIONAL INSTITUTE OF HEALTH, https://clinicaltrials.gov/ct2/show/NCT02507583?term=Imvax&draw=2&rank=1 (last accessed April 14, 2020) [hereinafter "Phase 1B Trial"]. These clinical trials utilized Applicant's Antisense treatment. Ex. E; *see also* Phase 1B Trial. The trials proved extremely successful and showed positive patient outcomes. Ex. E.

15. Applicant produced and published a "patient success stories" video, which memorializes its successful clinical trial outcomes over the years. *See* Imvax, *Imvax Treatise – Minus MoA June 2019*, VIMEO, https://vimeo.com/343078275/db23754e86 (last accessed April 14, 2020).

16. Applicant has, over the years, successfully raised many millions of dollars to fund its research. *See* Ex. E, Slide Deck. Applicant's fundraising success was highlighted in an article published by the Philadelphia Business Journal. *Imvax raises $25 million to advance experimental brain cancer treatment*, PHILADELPHIA BUSINESS JOURNAL, https://www.bizjournals.com/philadelphia/news/2019/05/30/imvax-immunotherapy-glioblastoma-brain-cancer.html (Sept. 10, 2019).

17. Applicant employs a team of employees, contractors, and consultants including scientists, clinical researchers, and product development contributors and has been distributing payroll since at least April 2017. *See* Ex. F, Paychex Enrollment Form; *see also* Imvax, *Our Team*, https://www.imvax.com/ (last accessed April 17, 2020).

18. Applicant has been a member of Life Sciences Pennsylvania since 2016. Through Life Sciences Pennsylvania, Applicant has attended conferences and presented on its research. This includes a presentation at the Life Sciences conference in 2016. *See* Ex. G (photo of Imvax's Dr. David Andrews speaking to conference attendees at Imvax booth sporting IMVAX signage).

19. Applicant's activities, including those recited *supra* in paragraphs 7-18, constitute use or otherwise create priority rights in Applicant's IMVAX Mark. *See, e.g.*, 15 U.S.C. § 1127 (defining "use in commerce"); *Kythera Biopharmaceuticals, Inc. v. Litera, Inc.*, 998 F. Supp. 2d 890, 900 (C.D. Cal. 2014) (finding that an entity that "actually offers its research services" and engages in licensing and development efforts to that end had used its mark in commerce); *Dexas Int'l, Ltd. v. Ideavillage Prods. Corp.*, 2108 WL 3586101, at *3 (TTAB July 24, 2018) (finding that prior use of a term in "advertising brochures, . . . in press releases," and in a trade show display can demonstrate priority).

20. Opposer has, on multiple occasions, represented that Opposer's Mark and Applicant's IMVAX mark are confusingly similar. *See* Notice of Opposition; *see also* Ex. H, Opposer's December 11, 2019 Letter.

21. Applicant has pursued resolution of this matter with Opposer in an appropriate, reasonable fashion (including conducting business leader meetings with Opposer) and has proposed concessions including amendments to its Application Serial No. 87/934,880 to further that goal. *See* Ex. H, Dec. 11, 2019 Letter. Applicant made similar efforts in its discussions with Sanofi and Ivax to resolve co-pending Opposition Nos. 91252792 and 91252789; those efforts were successful, and the Oppositions have been suspended on consent pending the final determination of the instant Opposition.

22. Opposer has, however, not negotiated with Applicant in good faith. Indeed, Opposer has pre-conditioned discussion between the parties and the granting of reasonable extension requests upon Applicant's compliance with Opposer's terms. *See* Ex. I, Email Conditioning Settlement Discussions and Extension of Time Upon Receipt of Evidence of Use.

23. Moreover, Opposer has attempted to utilize this Opposition in bad faith to coerce Applicant into paying it exorbitant sums of money and giving up the freedom to use and right to register Applicant's IMVAX mark. *See* Ex. H, December 11, 2019 Letter (acknowledging Opposer's willingness to settle but reiterating demand to cease use and withdraw application). This behavior by Opposer is especially problematic in light of the incontrovertible fact that Applicant has been using its IMVAX mark in U.S. commerce since before Opposer's alleged priority date.

COUNT I: LACK OF BONA FIDE INTENT TO USE

24. Applicant repeats and realleges paragraphs 1-23 of its Counterclaim, which are incorporated herein by reference.

25. Upon information and belief, Opposer did not have a bona fide intent to use Opposer's Mark in United States commerce when it filed Application Serial No. 79/233,134 that would become Opposer's Registration.

26. Moreover, upon information and belief, Opposer presently lacks a bona fide intent to use Opposer's Mark in United States commerce for the goods recited in Opposer's Registration.

27. "There can be a period of time during which the holder of a registration based on § 66(a) has not actually used the mark in commerce but still asserts a bona fide intention to do so. It is in this liminal state that a petition to cancel a registration on the ground of a lack of bona fide intent to use the mark can be heard." *Koninkijke Philips Electronics N.V. v. Hunt Control Sys., Inc.*, No. 11-3684, 2016 WL 3545529, at *11 (D. N.J. June 29, 2016) (internal alterations and quotation marks omitted) (quoting *Sandro Andy, S.A. v. Light Inc.*, No. 12-civ-2392, 2012 WL 6709268, at *3 (S.D.N.Y. Dec. 27, 2012)); *see also L'Oreal S.A. v. Macron*, 102 U.S.P.Q.2d 1434, 1444 (TTAB 2012) (noting that registration based on foreign filing must be accompanied by bona fide intent to use the mark in U.S. commerce).

28. As indicated in paragraphs 4 and 5, *supra*, upon information and belief Opposer has not used Opposer's Mark in commerce in the United States for the goods recited in Opposer's Registration since the date of Opposer's Registration.

29. Opposer's Registration is therefore squarely within the "liminal state" during which it is subject to cancellation "on the ground of a lack of bona fide intent to use." *Koninkijke Philips Elecs. N.V.*, 2016 WL 3545529, at *11.

30. More particularly, upon information and belief, Opposer has no bona fide intent to use Opposer's Mark in International Class 005 in connection with "Pharmaceutical and veterinary preparations and substances for the treatment of and protection against infections and autoimmune diseases and disorders."

31. Upon information and belief, Opposer has no bona fide intent to use Opposer's Mark in International Class 005 in connection with "pharmaceutical and veterinary preparations and substances for the treatment of or protection against viral . . . diseases and disorders."

32. Upon information and belief, Opposer has no bona fide intent to use Opposer's Mark in International Class 005 in connection with "pharmaceutical and veterinary preparations and substances for the treatment of or protection against . . . metabolic . . . diseases and disorders."

33. Upon information and belief, Opposer has no bona fide intent to use Opposer's Mark in International Class 005 in connection with "pharmaceutical and veterinary preparations and substances for the treatment of or protection against . . . musculoskeletal . . . diseases and disorders."

34. Upon information and belief, Opposer has no bona fide intent to use Opposer's Mark in International Class 005 in connection with "pharmaceutical and veterinary preparations and substances for the treatment of or protection against . . . cardiovascular . . . diseases and disorders."

35. Upon information and belief, Opposer has no bona fide intent to use Opposer's Mark in International Class 005 in connection with "pharmaceutical and veterinary preparations and substances for the treatment of or protection against . . . genitourinary . . . diseases and disorders."

36. Upon information and belief, Opposer has no bona fide intent to use Opposer's Mark in International Class 005 in connection with "pharmaceutical and veterinary preparations and substances for the treatment of or protection against . . . central nervous system . . . diseases and disorders."

37. Upon information and belief, Opposer has no bona fide intent to use Opposer's Mark in International Class 005 in connection with "pharmaceutical and veterinary preparations and substances for the treatment of or protection against . . . endocrinological . . . diseases and disorders."

38. Upon information and belief, Opposer has no bona fide intent to use Opposer's Mark in International Class 005 in connection with "pharmaceutical and veterinary preparations and substances for the treatment of or protection against . . . immunological . . . diseases and disorders."

39. Upon information and belief, Opposer has no bona fide intent to use Opposer's Mark in International Class 005 in connection with "pharmaceutical and veterinary preparations and substances for the treatment of or protection against . . . obstetrical . . . diseases and disorders."

40. Upon information and belief, Opposer has no bona fide intent to use Opposer's Mark in International Class 005 in connection with "pharmaceutical and veterinary preparations

and substances for the treatment of or protection against . . . gynaecological . . . diseases and disorders."

41. Upon information and belief, Opposer has no bona fide intent to use Opposer's Mark in International Class 005 in connection with "pharmaceutical and veterinary preparations and substances for the treatment of or protection against . . . oncological . . . diseases and disorders."

42. Upon information and belief, Opposer has no bona fide intent to use Opposer's Mark in International Class 005 in connection with "pharmaceutical and veterinary preparations and substances for the treatment of or protection against . . . respiratory . . . diseases and disorders."

43. Upon information and belief, Opposer has no bona fide intent to use Opposer's Mark in International Class 005 in connection with "pharmaceutical and veterinary preparations and substances for the treatment of or protection against . . . neurological . . . diseases and disorders."

44. Upon information and belief, Opposer has no bona fide intent to use Opposer's Mark in International Class 005 in connection with "pharmaceutical and veterinary preparations and substances for the treatment of or protection against . . . gastrointestinal . . . diseases and disorders."

45. Upon information and belief, Opposer has no bona fide intent to use Opposer's Mark in International Class 005 in connection with "pharmaceutical and veterinary preparations and substances for the treatment of or protection against . . . hormonal . . . diseases and disorders."

46. Upon information and belief, Opposer has no bona fide intent to use Opposer's Mark in International Class 005 in connection with "pharmaceutical and veterinary preparations and substances for the treatment of or protection against . . . dermatological . . . diseases and disorders."

47. Upon information and belief, Opposer has no bona fide intent to use Opposer's Mark in International Class 005 in connection with "pharmaceutical and veterinary preparations and substances for the treatment of or protection against . . . psychiatric related diseases and disorders."

48. Upon information and belief, Opposer has no bona fide intent to use Opposer's Mark in International Class 005 in connection with "prophylactic pharmaceutical and veterinary preparations and substances against infectious and autoimmune diseases."

49. Upon information and belief, Opposer has no bona fide intent to use Opposer's Mark in International Class 005 in connection with "vaccines, prophylactic vaccines, therapeutic vaccines."

50. Upon information and belief, Opposer has no bona fide intent to use Opposer's Mark in International Class 005 in connection with "contraceptive preparations and substances."

51. Upon information and belief, Opposer has no bona fide intent to use Opposer's Mark in International Class 010 in connection with "Surgical, medical, dental and veterinary apparatus and instruments."

52. Upon information and belief, Opposer has no bona fide intent to use Opposer's Mark in International Class 010 in connection with "drug delivery systems for delivery of drugs and vaccines."

53. Upon information and belief, Opposer has no bona fide intent to use Opposer's Mark in International Class 010 in connection with "needle-free drug delivery systems sold empty."

54. Upon information and belief, Opposer has no bona fide intent to use Opposer's Mark in International Class 010 in connection with "actuator devices, namely, medical solid dose injectors sold empty for injecting pharmaceutical and veterinary preparations into the skin."

55. Upon information and belief, Opposer has no bona fide intent to use Opposer's Mark in International Class 010 in connection with "drug cassettes in the nature of drug and vaccine delivery systems sold empty."

56. Upon information and belief, Opposer has no bona fide intent to use Opposer's Mark in International Class 010 in connection with "medical needle-free injection systems, needle-free injectors, namely, injection devices for administering drugs and vaccines, namely, medical injectors, needle-free injectors and structural parts therefor sold empty."

57. Upon information and belief, Opposer has no bona fide intent to use Opposer's Mark in International Class 010 in connection with "actuator devices for use in drug delivery devices, namely, handheld spring-powered devices in the nature of needle-free injection systems for injecting pharmaceutical and veterinary preparations into the skin sold empty."

58. Upon information and belief, Opposer has no bona fide intent to use Opposer's Mark in International Class 010 in connection with "drug cassettes for use in drug delivery devices in the nature of drug and vaccine delivery systems sold empty to contain pharmaceutical preparations and substances for therapeutic, prophylactic and diagnostic use."

59. Upon information and belief, Opposer has no bona fide intent to use Opposer's Mark in International Class 010 in connection with "replacement parts for all the aforesaid goods," as represented in paragraphs 50-57, *supra*.

60. Because Opposer lacks the bona fide intent to use Opposer's Mark in commerce, Opposer's Registration should be cancelled.

COUNT II: LIKELIHOOD OF CONFUSION

61. Applicant repeats and realleges paragraphs 1-60 of its Counterclaim, which are incorporated herein by reference.

62. Upon information and belief, Applicant's first use in commerce of its IMVAX mark in the United States occurred earlier than the September 21, 2017 foreign priority date to which Opposer claims priority.

63. Opposer has admitted—in correspondence with Applicant and through binding admissions to this Board—that Opposer's Mark is confusingly similar to Applicant's IMVAX mark, that the goods covered by Applicant's IMVAX mark and Opposer's Mark are "substantially related," and that there is a likelihood of confusion between the two marks as applied to the goods listed in Applicant's Application Serial No. 87/934,880. Notice; *see also* Opposer's Dec. 11, 2019 Letter.

64. When a party to an opposition makes factual admissions in a pleading, it is bound by those admissions and estopped from making contrary arguments. *See, e.g.*, *Brown Co. v. Am. Stencil Mfg. Co., Inc.*, 180 U.S.P.Q. 344, 345 n.5 (T.T.A.B. 1973). Thus, Opposer is bound by its factual admissions relating to likelihood of confusion.

65. A party, like Applicant, with priority of use, that shows a likelihood of confusion between its mark and that of another, is entitled to continued use and registration of its mark while the other is subject to cancellation. *E.g.*, TBMP § 309.03(c)(2).

66. Continued registration of Opposer's Mark is inconsistent with Applicant's priority of use and prior exclusive rights in its IMVAX mark and threatens to destroy Applicant's substantial investment and goodwill in its IMVAX mark.

67. For the foregoing reasons, Applicant will be damaged by the continued registration of Opposer's Mark.

WHEREFORE, Applicant/Counterclaimant respectfully requests that Opposer's Registration No. 5706102 be cancelled in whole or in part.

Applicant appoints attorneys Alfred W. Zaher, Richard L. Moss and Brianna M. Vinci along with the law firm Montgomery McCracken Walker & Rhoads LLP, 1735 Market Street, Philadelphia, PA 19103, to transact all business on its behalf in connection with this Opposition.

Dated: April 20, 2020

Respectfully submitted,

/s/ Alfred W. Zaher

Montgomery McCracken Walker &
Rhoads LLP
Alfred W. Zaher
Richard L. Moss
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1735 Market Street
Philadelphia, PA 19103
(215) 772-1500
Attorneys for Applicant/Counterclaimant

CERTIFICATE OF SERVICE

I, Brianna Vinci, hereby certify that on this 20th day of April, 2020, I caused a copy of the foregoing document to be served upon counsel for Opposer via electronic mail.

s/ Brianna Vinci
Brianna Vinci

EXHIBIT A

Delaware

The First State

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF INCORPORATION OF "IMVAX, INC.", FILED IN THIS OFFICE ON THE EIGHTEENTH DAY OF NOVEMBER, A.D. 2015, AT 5:19 O`CLOCK P.M.

A FILED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE NEW CASTLE COUNTY RECORDER OF DEEDS.

5882895 8100
SR# 20150980892

Authentication: 10451025
Date: 11-18-15

You may verify this certificate online at corp.delaware.gov/authver.shtml

State of Delaware
Secretary of State
Division of Corporations
Delivered 05:19 PM 11/18/2015
FILED 05:19 PM 11/18/2015
SR 20150980892 - File Number 5882895

CERTIFICATE OF INCORPORATION

OF

IMVAX, INC.

The undersigned, a natural person (the "***Sole Incorporator***"), for the purpose of organizing a corporation to conduct the business and promote the purposes hereinafter stated, under the provisions and subject to the requirements of the laws of the State of Delaware hereby certifies that:

I.

The name of this corporation is ImVax, Inc.

II.

The registered office of the corporation in the State of Delaware shall be 2711 Centerville Road, Suite 400, Wilmington, County of New Castle, DE 19808 and the name of the registered agent of the corporation in the State of Delaware at such address is Corporation Service Company.

III.

The purpose of this corporation is to engage in any lawful act or activity for which a corporation may be organized under the Delaware General Corporation Law.

IV.

This corporation is authorized to issue only one class of stock, to be designated Common Stock. The total number of shares of Common Stock presently authorized is 1,000,000, each having a par value of $0.001.

V.

A. The management of the business and the conduct of the affairs of the corporation shall be vested in its Board of Directors. The number of directors which shall constitute the whole Board of Directors shall be fixed by the Board of Directors in the manner provided in the Bylaws.

B. No person entitled to vote at an election for directors may cumulate votes to which such person is entitled unless required by applicable law at the time of such election. During such time or times that applicable law requires cumulative voting, every stockholder entitled to vote at an election for directors may cumulate such stockholder's votes and give one candidate a number of votes equal to the number of directors to be elected multiplied by the number of votes to which such stockholder's shares are otherwise entitled, or distribute the stockholder's votes on the same principle among as many candidates as such stockholder desires. No stockholder, however, shall be entitled to so cumulate such stockholder's votes unless (A) the names of such candidate or candidates have been placed in nomination prior to the voting and (B) the stockholder has given notice at the meeting, prior to the voting, of such stockholder's intention to cumulate such stockholder's votes. If any stockholder has given proper notice to cumulate votes, all stockholders may cumulate their votes for any candidates who have been properly placed in nomination. Under cumulative voting, the candidates receiving the highest number of votes, up to the number of directors to be elected, are elected.

C. The Board of Directors is expressly empowered to adopt, amend or repeal the Bylaws of the corporation. The stockholders shall also have power to adopt, amend or repeal the Bylaws of the corporation; provided, however, that, in addition to any vote of the holders of any class or series of stock of the corporation required by law or by this Certificate of Incorporation, such action by stockholders shall require the affirmative vote of the holders of at least a majority of the voting power of all of the then-outstanding shares of the capital stock of the corporation entitled to vote generally in the election of directors, voting together as a single class.

VI.

A. The liability of the directors for monetary damages shall be eliminated to the fullest extent under applicable law.

B. To the fullest extent permitted by applicable law, the corporation is authorized to provide indemnification of (and advancement of expenses to) directors, officers and agents of the corporation (and any other persons to which applicable law permits the corporation to provide indemnification) through Bylaw provisions, agreements with such agents or other persons, vote of stockholders or disinterested directors or otherwise in excess of the indemnification and advancement otherwise permitted by such applicable law. If applicable law is amended after approval by the stockholders of this Article VI to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director to the corporation shall be eliminated or limited to the fullest extent permitted by applicable law as so amended.

C. Any repeal or modification of this Article VI shall only be prospective and shall not affect the rights or protections or increase the liability of any director under this Article VI in effect at the time of the alleged occurrence of any act or omission to act giving rise to liability or indemnification.

VII.

The corporation reserves the right to amend, alter, change or repeal any provision contained in this Certificate of Incorporation, in the manner now or hereafter prescribed by statute, and all rights conferred upon the stockholders herein are granted subject to this reservation.

VIII.

The name and the mailing address of the Sole Incorporator is as follows:

Bobbi Milliken
Cooley LLP
11951 Freedom Drive, 16th Floor
Reston, VA 20190

[Remainder of this page intentionally left blank]

This Certificate has been subscribed as of November 18, 2015 by the undersigned who affirms that the statements made herein are true and correct.

/s/ Bobbi Milliken
BOBBI MILLIKEN
Sole Incorporator

EXHIBIT B

WHOIS search results

Domain Name: imvax.com
Registry Domain ID: 1981615673_DOMAIN_COM-VRSN
Registrar WHOIS Server: whois.godaddy.com
Registrar URL: http://www.godaddy.com
Updated Date: 2018-07-05T18:47:14Z
Creation Date: 2015-11-18T04:13:52Z
Registrar Registration Expiration Date: 2027-11-18T04:13:52Z
Registrar: GoDaddy.com, LLC
Registrar IANA ID: 146
Registrar Abuse Contact Email: abuse@godaddy.com
Registrar Abuse Contact Phone: +1.4806242505
Domain Status: clientTransferProhibited
http://www.icann.org/epp#clientTransferProhibited
Domain Status: clientUpdateProhibited
http://www.icann.org/epp#clientUpdateProhibited
Domain Status: clientRenewProhibited
http://www.icann.org/epp#clientRenewProhibited
Domain Status: clientDeleteProhibited
http://www.icann.org/epp#clientDeleteProhibited
Registry Registrant ID: Not Available From Registry
Registrant Name: Arthur Howe
Registrant Organization: Imvax Inc
Registrant Street: Suite 101
Registrant Street: 40 West Evergreen Ave.

EXHIBIT C

Entity# : 6465503
Date Filed : 10/20/2016
Pedro A. Cortés
Secretary of the Commonwealth

PENNSYLVANIA DEPARTMENT OF STATE
BUREAU OF CORPORATIONS AND CHARITABLE ORGANIZATIONS

☐ **Return document by mail to:**
CSC order #337581-5
Name

Address

Corporation Service Company
(xx)Return document by email to: **cscpa@cscinfo.com**

Foreign Registration Statement

DSCB:15-412

TCO161020MC0463

Read all instructions prior to completing. This form may be submitted online at [illegible]

Fee: $250

In compliance with the requirements of the applicable provisions of 15 Pa.C.S. § 412 (relating to foreign registration statement), the undersigned foreign association hereby states that:

1. The type of association is (check only one):

☑ Business Corporation
☐ Nonprofit Corporation
☐ Limited Liability Company
☐ Limited Partnership
☐ Limited Liability (General) Partnership
☐ Limited Liability Limited Partnership
☐ Business Trust
☐ Professional Association

2. The full and proper name of the foreign association as registered in its jurisdiction of formation is:

ImVax, Inc.

2A. *If the name in 2 does not contain a required designator* ***or*** *if the name in 2 is not available for use in the Commonwealth,* the alternate name under which the association is registering in this Commonwealth is:

A resolution of the governors adopting the name in **2A** for use in registering to do business in this Commonwealth must be attached.

3. The jurisdiction of formation is: Delaware

4. The street and mailing address of the association's principal office.

40 W Evergreen Avenue, Philadelphia, PA 19118
Number and street | City | State | Zip

4A. The street and mailing address of the office, if any, required to be maintained by the law of the association's jurisdiction of formation in that jurisdiction:

Number and street | City | State | Zip

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COMM OF PA
DEPT OF STATE

5. The (a) address of the association's proposed registered office in this Commonwealth or (b) name of its Commercial Registered Office Provider and the county of venue is:

*Complete part (a) **OR** (b) – not both:*

(a) _____
Number and street City State Zip County

OR

(b) c/o: Corporation Service Company Dauphin
Name of Commercial Registered Office Provider County

6. *Check one of the following:*

☑ The association may not have series.

☐ The association may have one or more series.

7. Effective date of registration of foreign association (check, and if appropriate complete, one of the following):

☑ The Foreign Registration Statement shall be effective upon filing in the Department of State.

☐ The Foreign Registration Statement shall be effective on: _____ at _____.
Date (MM/DD/YYYY) Hour (if any)

8. *To be completed by **Limited Liability Companies only**. Check, and if appropriate complete, one of the following:*

☐ The association is a limited liability company which is not organized to render any of the below professional service(s).

☐ The association is a restricted professional limited liability company organized to render one or more of the following professional service(s): (If this box is checked, one or more of the fields below must be checked.)

___Chiropractic ___Dentistry ___Law ___Medicine and surgery
___Optometry ___Osteopathic medicine and surgery ___Podiatric medicine ___Public accounting
___Psychology ___Veterinary medicine

IN TESTIMONY WHEREOF, the undersigned association has caused this Foreign Registration Statement to be signed by a duly authorized representative thereof this 18th day of October, 20 16.

ImVax, Inc.
Name of Association


Signature

Arthur W. Howe, Secretary
Title

EXHIBIT D

Vickie and Jack Farber
Institute for Neuroscience™
at Jefferson

IMPACT REPORT
JANUARY 2017

This is the frontier for neuroscience
and **we are its pioneers**

PREPARED FOR

Albert and **Mary Ann Stevens**

Our Gratitude

Thank you.

We are very grateful for your family's incredible generosity, confidence and trust. Your support has enabled Dr. David Andrews and his team not only to investigate a cure for glioblastoma, but also to make advances in immunotherapy treatments that may apply to other cancers as well.

Your extraordinary early investment in neuroscience discovery and patient care has allowed Dr. Andrews to conduct the high-impact research that promises to improve quality of life and provide revolutionary treatment options for patients at Jefferson and far beyond.

Thank you for being our partner in discovery as we reimagine the future of healthcare together.

Overview

The Brain Tumor Center at Jefferson, under the direction of David W. Andrews, MD, FACS, is home to some of the best medical and scientific minds in Neurological Surgery and Neuro-Oncology. With a robust program integrating world-class surgical and medical care, leading edge research into the development of new therapies and techniques, and a highly competitive training program, the Brain Tumor Center is recognized for both its comprehensive program and innovation.

One of the signature research efforts has been led by Dr. Andrews: the development of an immunotherapy treatment for glioblastoma (GBM), the most common and most aggressive brain tumor. GBM is uniformly fatal, and the current standard of care provides little in the way of extending quality life: for GBM, the current standard of care results in a good six-month progression-free survival rate of 20%. An improvement on progression-free survival has been an elusive goal.

Over the last 20 years, Dr. Andrews, his chief collaborator Dr. D. Craig Hooper, and the research team have advanced our understanding of a specific mechanism of cell differentiation into one of the most promising therapeutic studies approaching completion of Phase 1 clinical trial. This therapy, Antisense™, specifically targets a particular cell type involved in tumor development and metastasis, and not only stops the cell's ability to support the tumor's growth, but further engages the body's innate immune system to attack the tumor itself. Compared to treatment alternatives for recurrence of gliomas, including additional radiation and chemotherapy, this immunotherapy promises to offer greater benefit with fewer risks.

Early Stage R&D Timeline

1994

Pre-Clinical Discovery: bench research on IGF-IR.

1997

Phase 1 pilot safety and feasibility study and first human antisense trial begin.

2001

$2 million philanthropic support for basic research studies to investigate pilot study data.

2002

Conduct basic science research to identify cellular mechanism causing tumor regression: Characterize this target for further study.

2008

Pre Investigational New Drug (IND) Application submission. $1.5 million philanthropic investment to support ongoing studies.

2008 - 2011

Phase 1 regulatory compliance for FDA.

2011

IND approval.

Open first Phase 1 Trial completed.

2012

$2.6 million philanthropic investment to support ongoing studies.

2013

First Phase 1 Trial completed.

2015

Launch second Phase 1/2 Trial: Additional $100,000 in philanthropic support secured. Provisional patent filed.

Research Overview Prior to 2016

Dr. David Andrews and his team are the first to have successfully developed this form of immunotherapy vaccine, Imvax Antisense™, which targets and shuts down tumor-associated macrophages (TAMs), one of cancer's prime master switches. Because this specific CD163TAM is able to fully support tumor growth, eliminating it shuts down production of a protein (PDL-1), thereby promoting a targeted immune attack and stripping the tumor of blood supply and nutrients. Importantly, there was early evidence that similar cellular characteristics were found in the serum of patients with other solid tumors, suggesting the potential for this method to be effective for the treatment of other cancers.

Dr. Andrew's initial pilot study in 1997 demonstrated not only safety, but also unanticipated and remarkable tumor regression in GBM patients who failed standard of care. Using that data, Dr. Andrews returned to the lab to further investigate the impact of antisense on tumor associated macrophages, CD163+ cells.

Over the next 10 years, Dr. Andrews and his team developed Antisense™, a molecule that shuts down the targeted surface receptor protein on the cell known as CD163+.

The first Phase 1 clinical trial began in 2012, enrolling a population of glioblastoma patients who had failed standard therapy and were immunocompromised because of it. Patients were treated with the Antisense™ vaccine. This immunotherapy treatment safely eliminated the M2 macrophage within the tumor environment resulting in radiographic regression of tumors in 8 of 12 patients. Compared to other immunotherapy strategies, this treatment further demonstrated engagement of the native immune system in attacking the tumor. This finding led to the U.S. Provisional Patent No. 62/145,758, filed April 10, 2015.

Current Research Timeline

Ongoing

Secure funding needed to complete second Phase 1/2 Trial

January 2016

Three month stop point for data safety review process

April 2016

First patent application to non-provisional/PCT filing

June 2016

Licensing agreement between Imvax and TJUH finalized

July 2016

Orphan drug designation submitted to FDA

September 2016

Second Provisional Patent filed (IMVX-003/01US)

December 2016

Approach trial halfway point with accrual of 15 of 32 patients

December 2017

Complete Second Phase 1/2 Trial

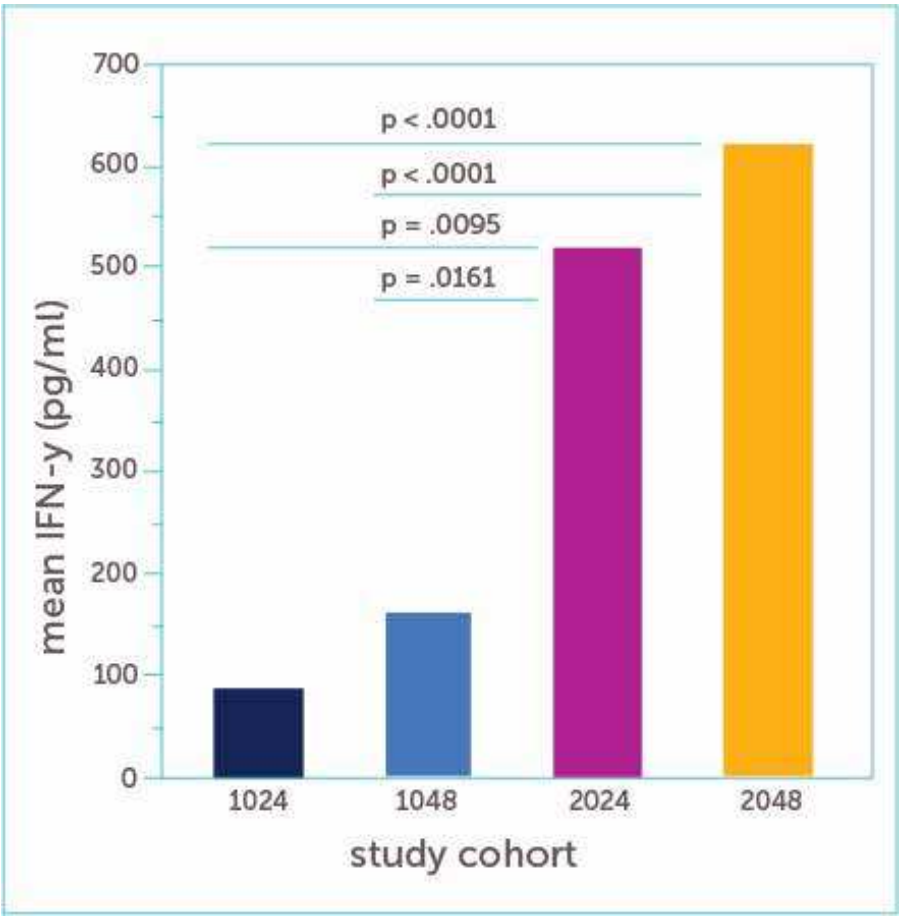
Current Research

In September 2015, the second and current clinical trial of Phase 1 (14379-102) was opened to enroll a population of newly diagnosed glioblastoma patients treated prior to standard therapy who are therefore not immunocompromised.

The current trial will enroll a total of 32 patients in four cohorts:

- 10 chambers implanted for 24 hours (lowest dose)
- 10 chambers implanted for 48 hours (lower dose)
- 20 chambers implanted for 24 hours (higher dose)
- 20 chambers implanted for 48 hours (highest dose)

Thirteen patients have been treated since July 2016 and there has been unprecedented improvement in 9 of 13 patients. Results show highly statistically significant increases in a pro-inflammatory response for each higher dose of vaccine, establishing efficacy with a higher dose and time period of inoculation.



In September 2016, a second U.S. Provisional Patent, IMVX-003/01US, was filed, protecting the discoveries relating to the discovery of a newly identified cancer stem cell and its role in supporting tumor growth.

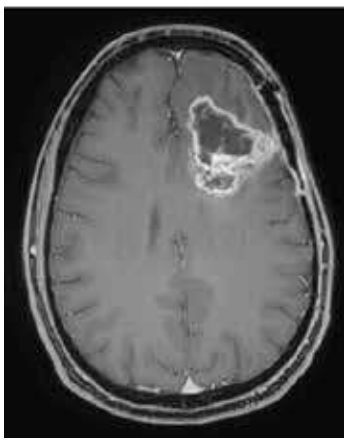
Case Studies

CASE STUDY: 32-year-old male, athletic, stage IV glioblastoma – Highest treatment dose with Imvax Antisense™

a. MRI: 41cc (65% decrease), 11 months post-op.

b. CT Scan: 11 months post-op.

i. Negative space represents the location of the tumor. Absence of red (blood flow) demonstrates supply to tumor shut down.



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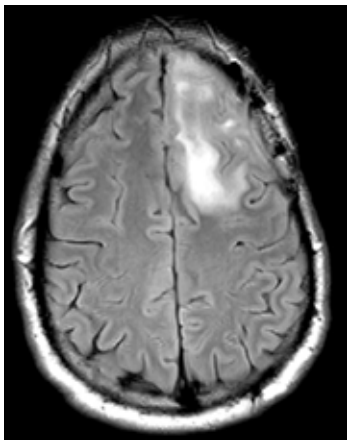

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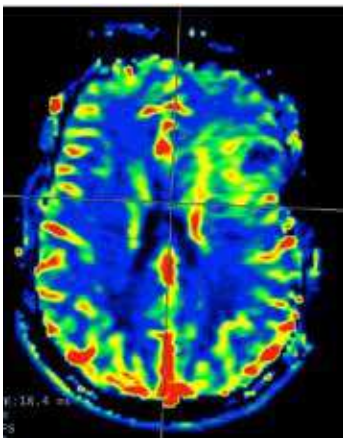

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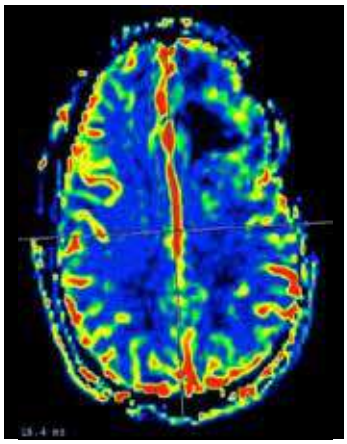


After

PATIENT TESTIMONIAL

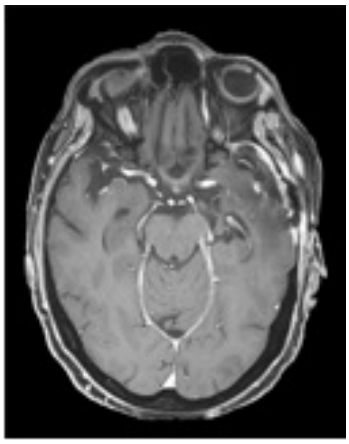
“Dr. Andrews has been great. When all of this first happened we went to [another hospital] and interviewed with their surgeon who said they wouldn’t be able to tell me which clinical trial they’d put me in until they removed the tumor. With Dr. Andrews I went into it knowing what I was going to get and I think that made a huge difference.”

– Patient from case study above reflecting on his experience to date

CASE STUDY: 67-year-old female, self-employed entrepreneur, stage IV glioblastoma – Higher treatment dose

a. MRI: One year post-op.

i. FLAIR – Fluid attenuated inversion recovery



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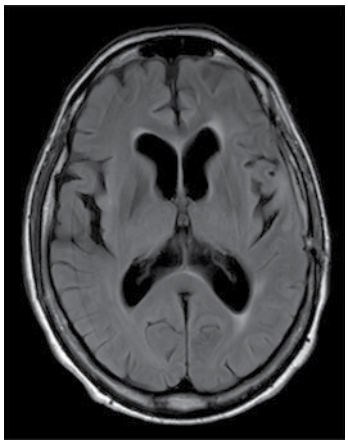
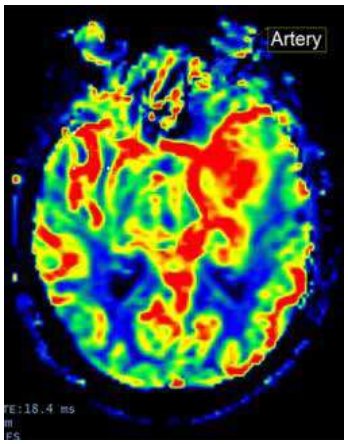


After

b. CT Scan: One year post-op.

i. Axial enhanced with perfusion.



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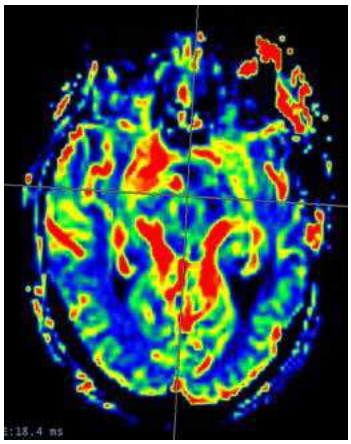
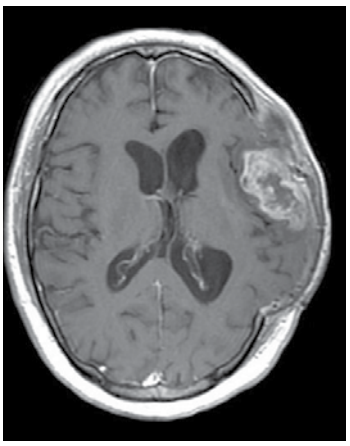


After

CASE STUDY: 48-year-old male, construction contractor from Caribbean, stage IV glioblastoma – Lower treatment dose

a. Baseline: Surgery to remove a small portion of the tumor performed in Grand Cayman Islands

b. 10 months post vaccination: Complete resolution of enhancement in both tumor and ventricles



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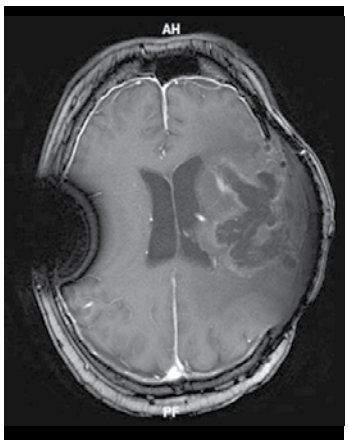
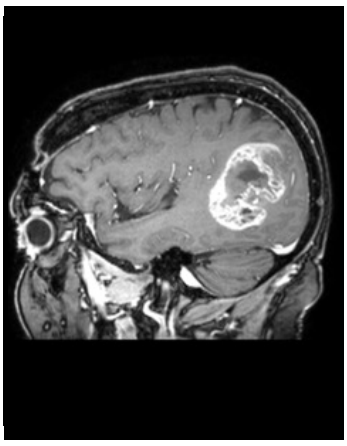


After

CASE STUDY: 65-year-old female, vaccinated, local recurrence, revaccinated, stage IV glioblastoma – Lowest treatment dose

a. Pre-operative MRI

b. Four months after second vaccination; no evidence of tumor progression



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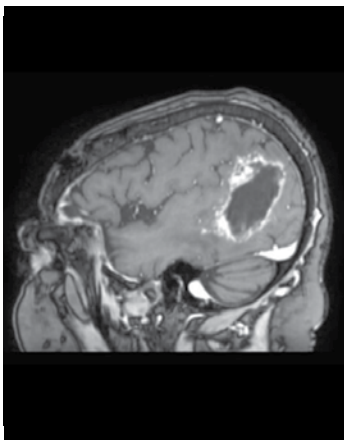


After

Key Discoveries

In this current trial, patients who are doing the best received the highest dose of the vaccine, and the striking relationship between the lowest vaccine dose and the highest was a very exciting surprise. This trial is the defining trial because these are newly diagnosed tumors, so the immune system is a lot more intact.

What Dr. Andrews has found with this particular cancer cell is that it will drop in and create an M2-like cell. The tumor will differentiate M2, which come into the area of injury as healing cells, into the M2-like cells and draw it into the tumor environment. This ends up actually diverting M2 cells and co-opting the immune system to support the tumor growth.

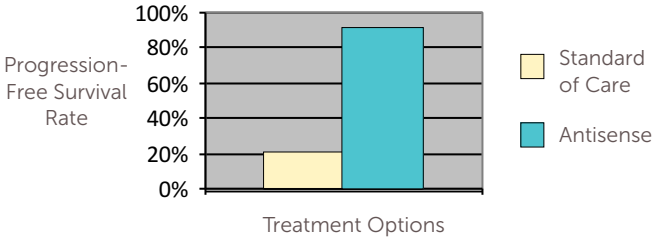
A landmark finding of the current trial is the discovery of the role of a newly identified stem cell involved in tumor growth, definitively demonstrating that the combination of this cell (called nestin) with CD163+ is the master switch at the core of the molecular processes that support the growth of the brain tumor, and confirming that the Antisense™ vaccine effectively flips the switch to starve the tumor and launch the immune response.

Big Pharma's immunotherapy approach is to cut out the PDL-1 ligand that kills the T-Cells made by the immune system to attack the tumor. Unlike big pharma the antisense treatment is eliminating the M2-like cell, not just disrupting this relationship between M2 and PDL-1. This is changing the micro environment. Instead of just one mono therapy, treatment initiates three waves of attack. As an analogy, it's like a war-like attack in 3 phases:

1. Cutting out the tumor supply chain (M2 macrophage – food, water, ammunition)
2. Cutting out reinforcements (by eliminating stem cell populations that replenish the cancer and develop resistance to standard treatments)
3. Priming and promoting the adaptive immune response (awakening the systems reaction to target and shut down TAMs)

The two primary metrics in cancer treatment are overall survival and progression-free survival. With standard care, a good six month progression-free survival rate is 20%. Six months after Antisense treatment, our patients are showing 88% progression-free survival.

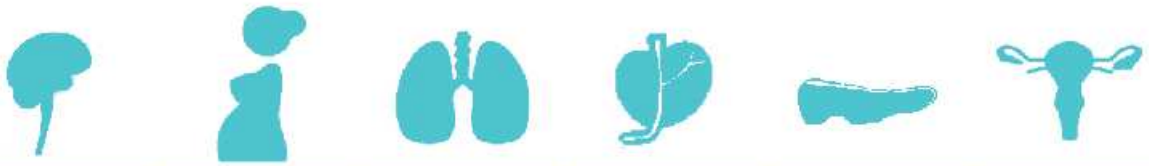
Progression-Free Survival Rate Comparison: Standard of Care v. Antisense



Imvax Antisense gives the body the ability to target and shut down TAMs, one of cancer's prime master switches. It is that finding that has also been able to confirm the early evidence that this treatment has the potential to work for the treatment of many different cancers, such as breast, lung, prostate, pancreatic and ovarian cancers.

Further Opportunity in Other Cancers

CD163+ TAM cells are the Master Switch in the following cancers:



Cancer Type	Brain (glioma)	Breast	Lung	Prostate	Pancreatic	Ovarian
New Cases each year (data from American Cancer Society, American Lung Association, Global Data)	20,000	292,130	221,200	221,200	53,070	22,000
Market Spending (data from National Institutes of Health/ National Cancer Institute)	$250 M	$10.5 B	$9 B	$13 B	$1.63 B	$4.7 B

Philanthropy Has Fueled the Engine of Discovery

The revolutionary advances made by Dr. Andrews and his team would not have been possible without your confidence and incredibly generous support over the last eight years.

The global pursuit of more effective therapies for cancer, and particularly for GBM and other solid tumor cancers, has been a long and often disappointing journey. The standard of care remains surgery followed by radiation and chemotherapy, harsh treatment regimens that expose patients to extraordinary suffering and physical harm while offering little in the way of extended quality survival. None of the immune therapies coming to the market today significantly impact outcomes for patients with GBM.

The research you have supported at Jefferson has allowed us to understand and shut down one of cancer's prime master switches, making the early development of Antisense™ possible.

The discoveries made by Dr. Andrews and his research team were funded in their entirety with less than $7 million in philanthropic and grant support, a remarkable achievement when compared to the cost of early drug development in industry, which crosses numerous laboratories over an average of 10 years at a cost of $1.2 billion.

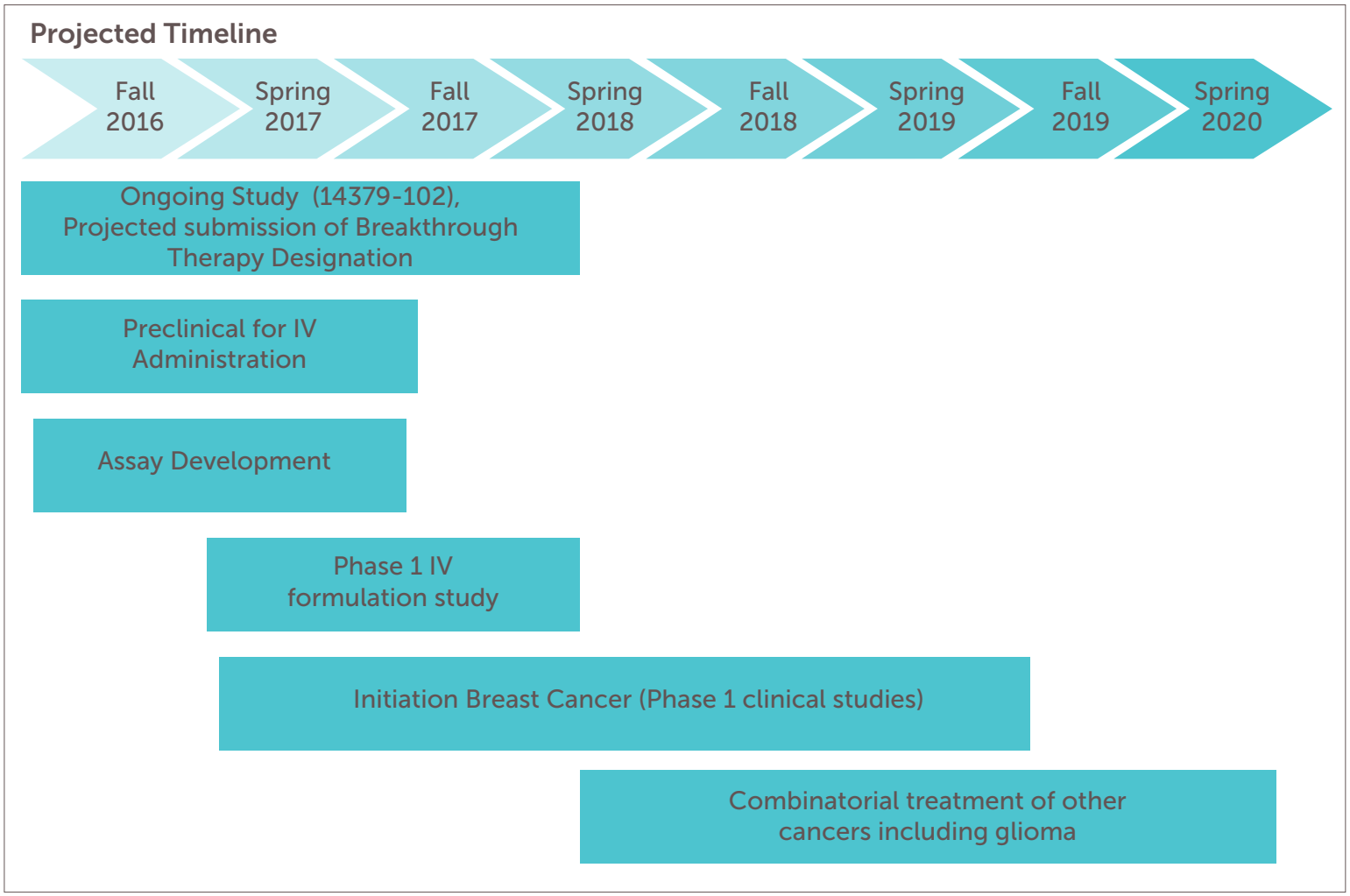
Thank you for your investment in this promising research.

The Future

The highest and most time sensitive priority for Dr. Andrews and his team is to finish the current trial. With 13 out of 32 patients accrued, we project the completion of recruitment by the end of 2017.

Other important milestones include:

- Secure breakthrough therapy designation for GBM
- Successfully launch IMVAX with initial funding of approximately $12 million to:
  - Develop an IV formulation for Antisense™ for GBM
  - Initiate trials for breast cancer



Jefferson is committed to transforming the future of healthcare through high-impact science combined with exceptional patient care and education. The research conducted by Drs. Andrews and Hooper discovered how to harness the immune system to fight GBM and led to the initial development of Antisense™ demonstrate this commitment.

Thank you for being our partners in discovery.


CURES
MADE POSSIBLE BY YOU
Help reimagine our future.

For additional information or with any questions about this project please contact:

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Vickie and Jack Farber
Institute for Neuroscience™
at Jefferson

Office of Institutional Advancement
125 South 9th Street, Suite 600
Philadelphia, PA 19107

Giving.Jefferson.edu

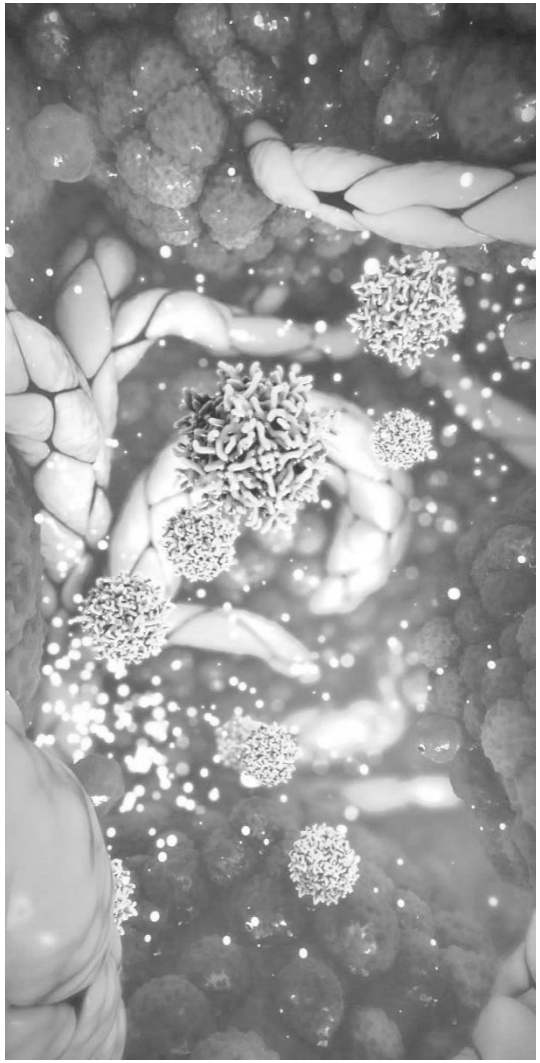
EXHIBIT E

Transforming Cancer Outcomes

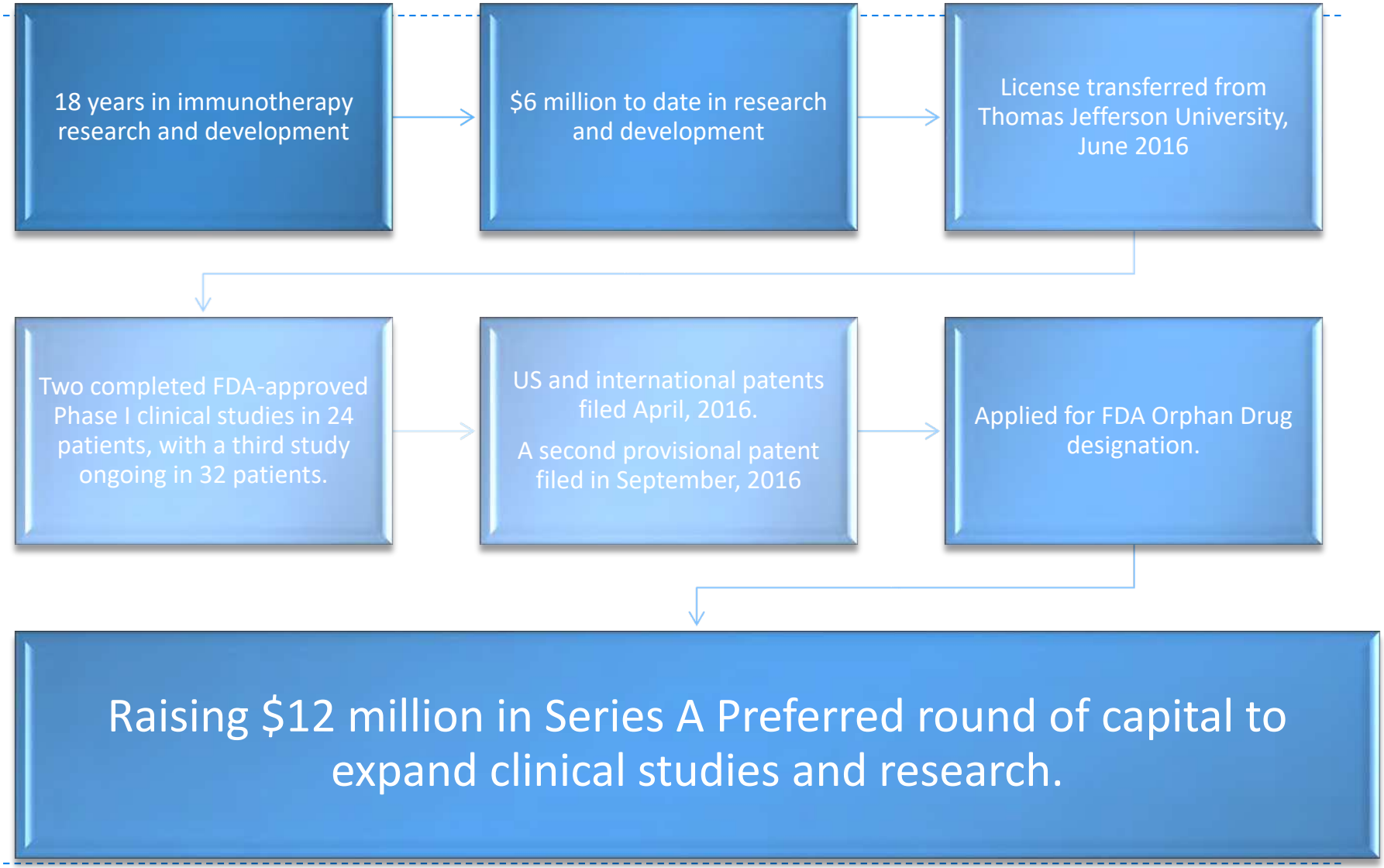
Imvax

Executive Summary

- Imvax has developed a novel therapeutic platform for cancer that involves a three prong attack:
- It alters the cancer microenvironment by targeting and eliminating cancer-supporting cells, including 1) CD163+PDL-1+ Macrophages, and 2) Nestin+ embryonic stem cells.
- The above enables 3) a much more robust cytotoxic T cell response when stimulated by tumor antigens.
- Phase I studies have demonstrated clinical safety and biological activity.
- It is among the first successful immunotherapy approaches to shrink solid tumors.

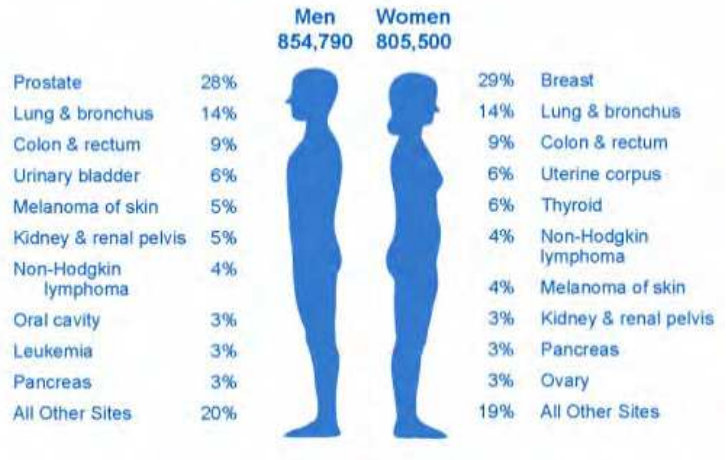


Imvax Accomplishments: 1998-2016

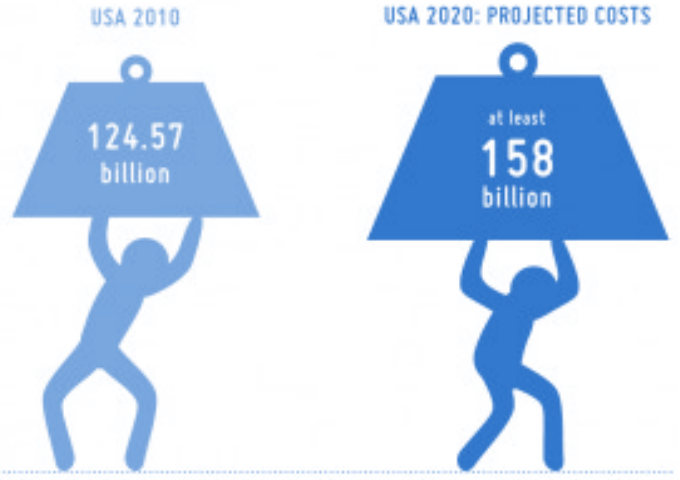


Market Opportunity

- Cancer afflicts over 1.6 million new patients each year in the US, with over 500,000 cancer deaths. *



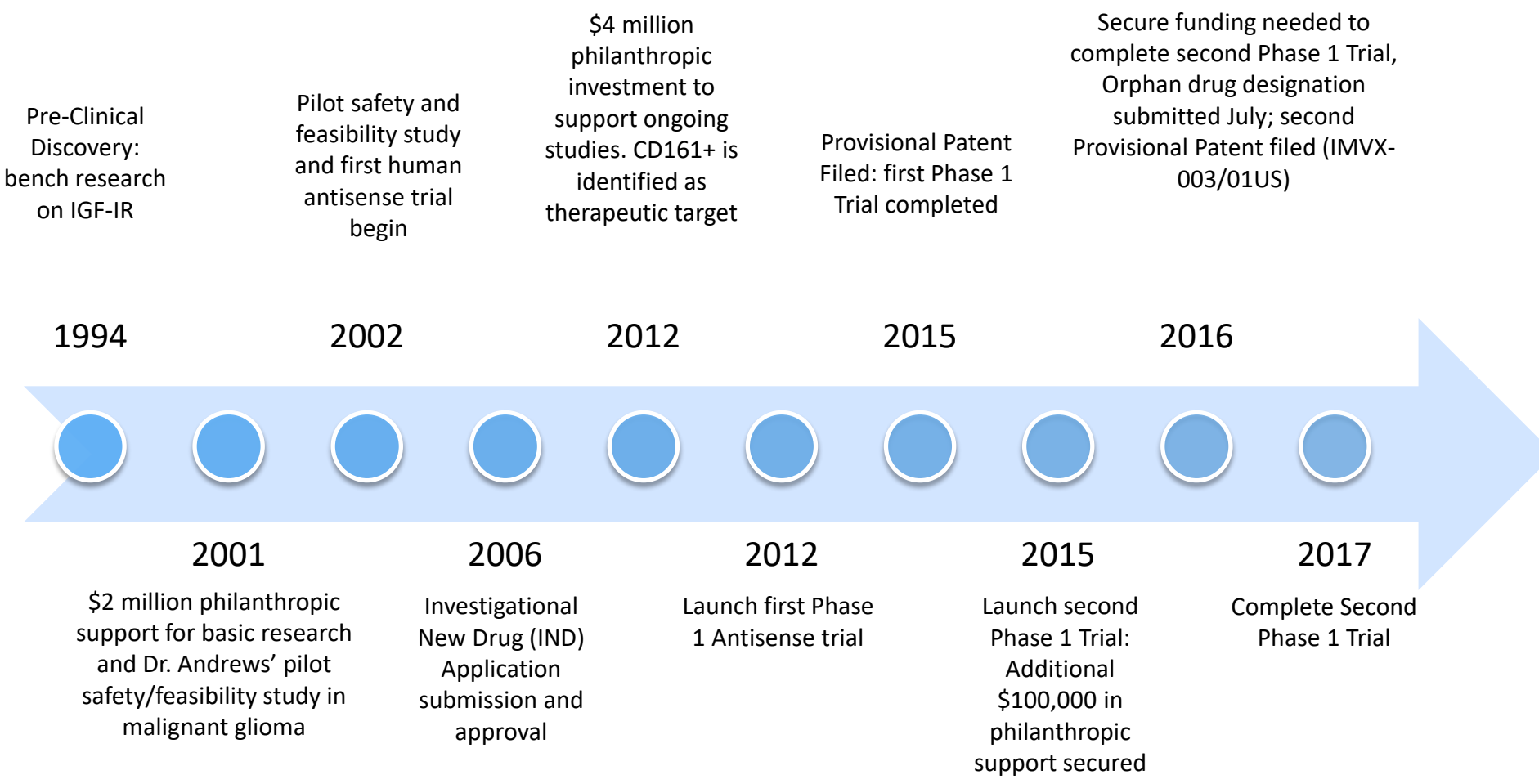
- US spending on cancer care annually tops $124 billion, projected to top $158 billion in four years.*



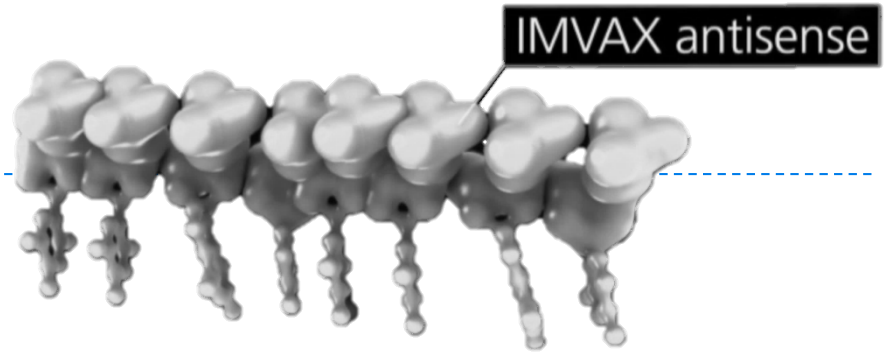
Significant medical need despite advances. Cures for the major killers, such as cancers of the brain, lung, and breast, remain elusive.

Source: NIH, 2015

Early Stage R&D



Imvax Platform



Imvax Antisense™ is the first immunotherapy shown to reverse the tumor microenvironment and destroy one of cancer's principle support mechanisms, Tumor Associated Macrophages (TAMs) identified specifically as a CD163 TAM. Elimination of TAMs:

- Cripples the tumor's ability to draw nourishment and blood as well as prevent an immune attack, and
- Enables the immune system to train anti-tumor immune cells to attack the tumor by eliminating CD163 monocytes producing immunosuppressive IL10 in the periphery as well as the TAMs

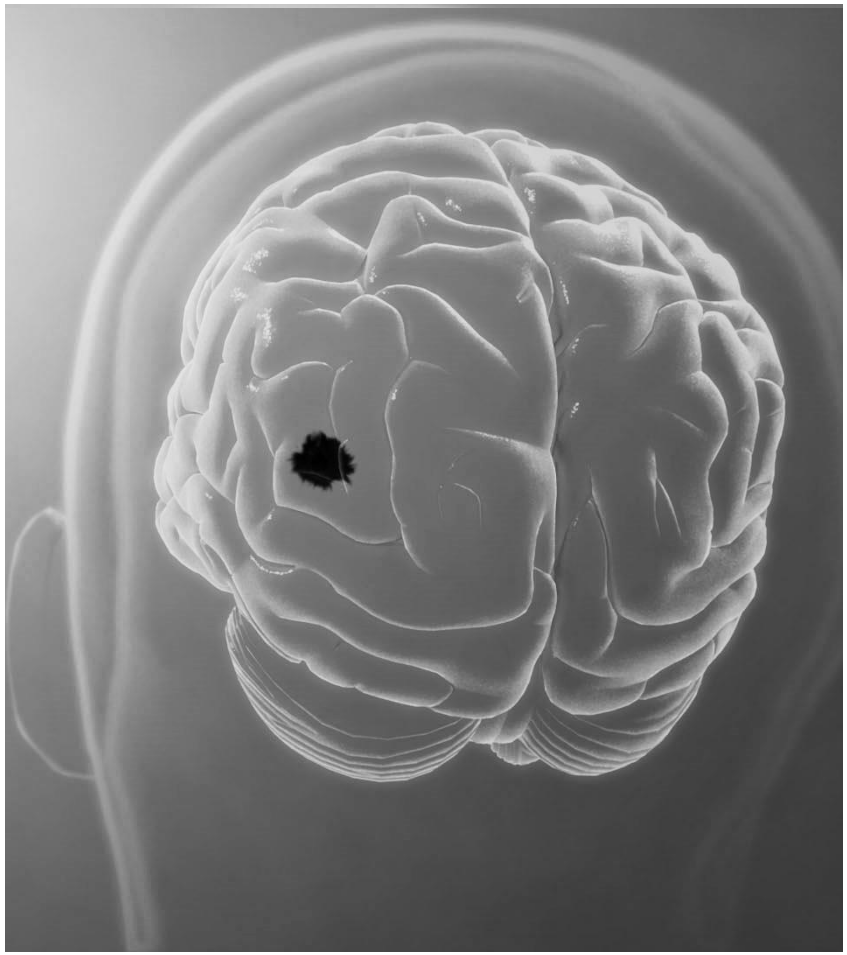
Clinical studies underway for patients with glioblastoma.

Lab studies in progress for other cancers, initially breast.

Clinical Evidence: **First** Phase 1 Trial for recurrent glioblastoma

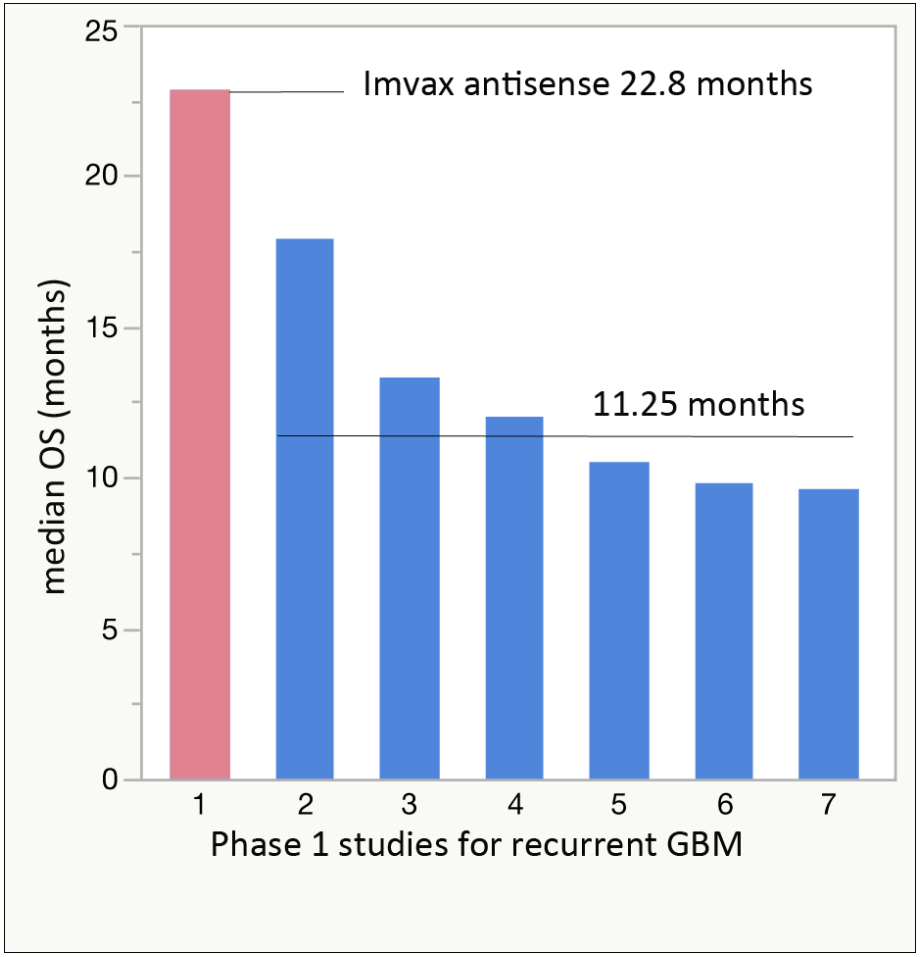
Population: Glioblastoma patients who had failed standard therapy (and were immuno-compromised by it) treated with Imvax antisense™ demonstrated biological responses and safety:

- Radiographic regression of tumors in eight out of 12 patients*.
- No treatment related toxicities were seen.
- Survival not assessed



*Andrews et. al. Journal of Clinical Oncology, 2001

Clinical Evidence: **Second** Phase 1 Trial for recurrent glioblastoma



- Survival now assessed; compared to six recently published immunotherapy trials for recurrent GBM, OS for Imvax was twice the median OS.
- Exploratory objectives now include assessments of immune response

Clinical Evidence: **Second** Phase 1 Trial

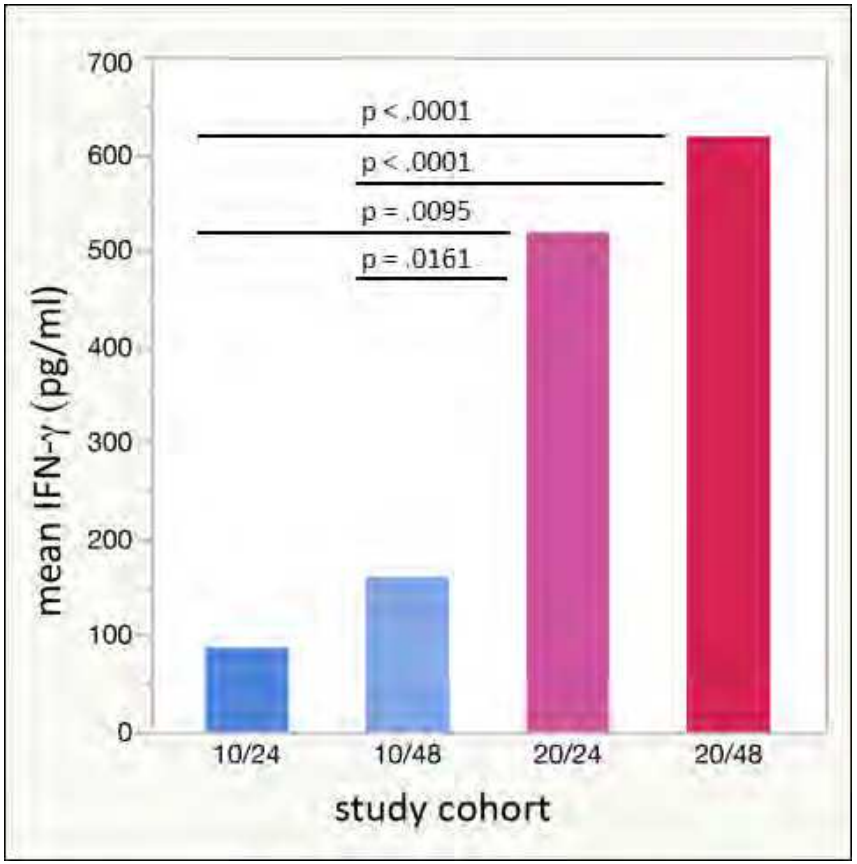
Population: Glioblastoma patients treated prior to standard therapy (and are therefore not immunocompromised); in four different treatment groups treated with Imvax Antisense™ at varying doses demonstrated biological responses and safety:

- Measurable and statistically significantly longer survival with associated immune responses associated with tumor regression and prolonged survival in four out of 12 patients.
- Radiographic regression of tumors in majority of patients.
- No treatment related toxicities were seen.

Clinical Evidence: **Third** Phase 1 Trial in newly diagnosed glioblastoma patients: **four treatment cohorts with Imvax antisense**

- 10 chambers implanted for 24 hours, lowest dose cohort
- 10 chambers implanted for 48 hours, lower dose cohort
- 20 chambers implanted for 24 hours, higher dose cohort
- 20 chambers implanted for 48 hours, highest dose cohort

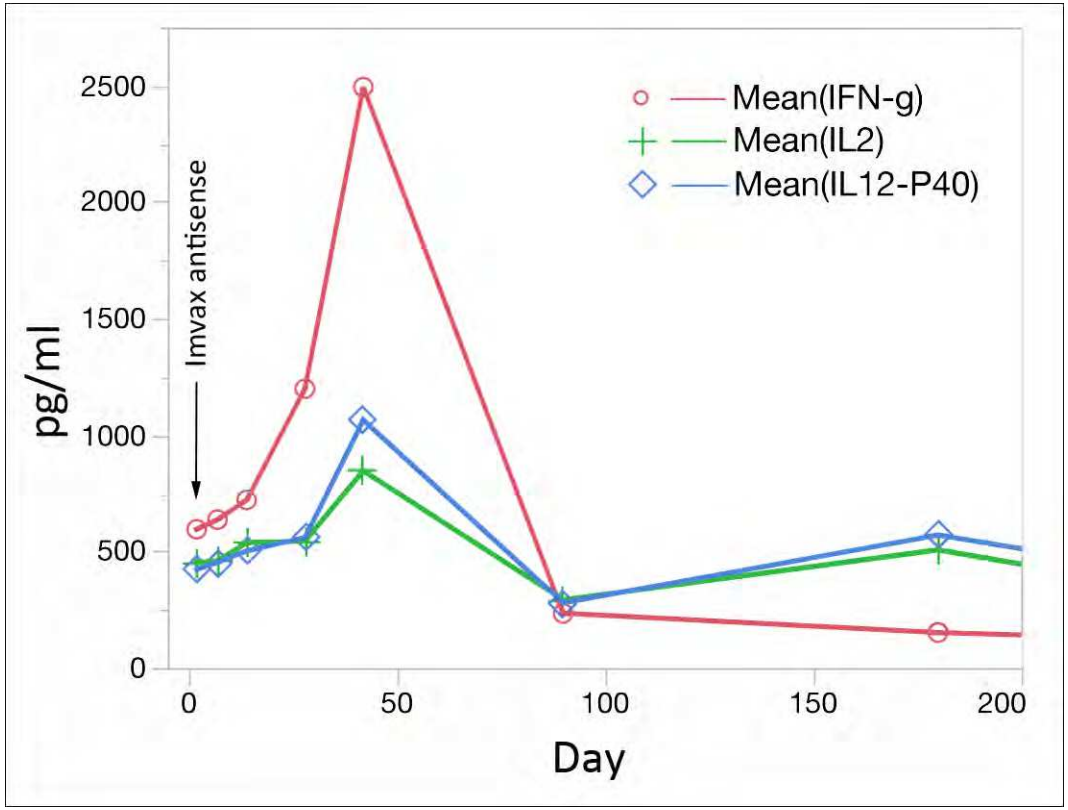
Clinical Evidence: **Third** Phase 1 Trial in newly diagnosed glioblastoma patients: **four treatment cohorts with Imvax antisense**



- Highly statistically significant increases in a pro-inflammatory response for each higher dose of vaccine: we have established **efficacy** with a higher dose and time period of innoculation

Recent Case Study 1

Highest treatment dose with Imvax antisense:
32-year-old male, athletic, stage IV glioblastoma

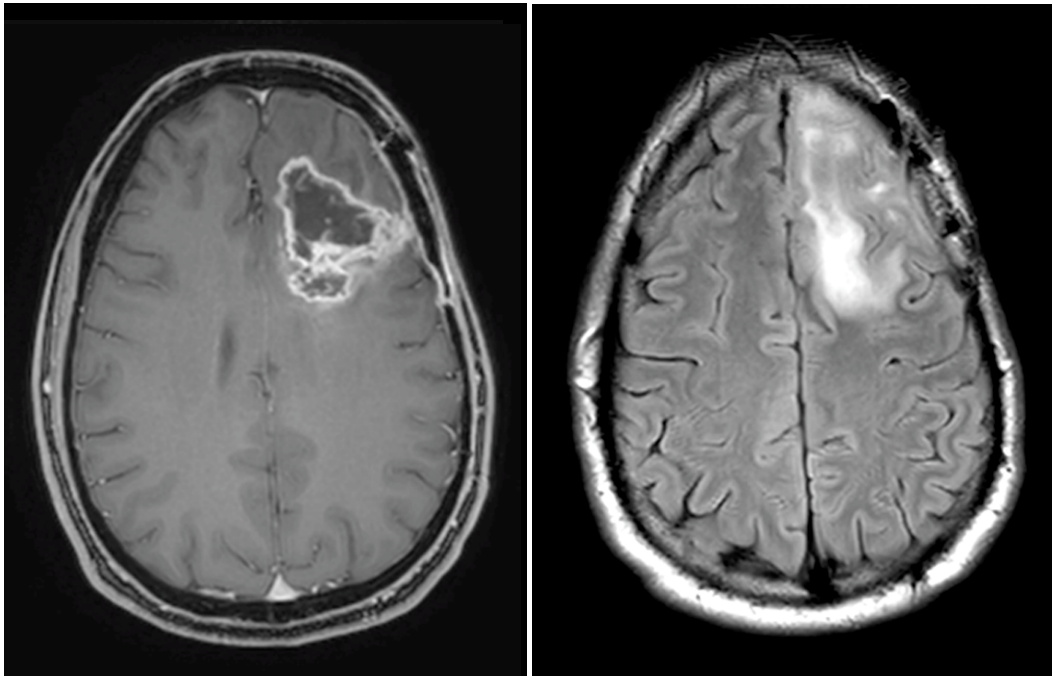


- Robust Th1 pro-inflammatory immune response at 42 days

Recent Case Study 1

- Highest treatment dose with Imvax antisense:

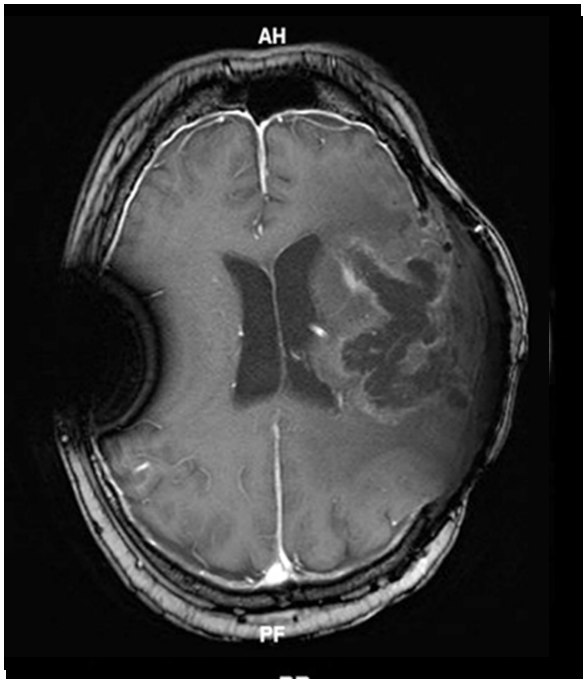
  32-year-old male, athletic, stage IV glioblastoma



41cc (65% decrease)
(11 months post-op)

Recent Case Study 2

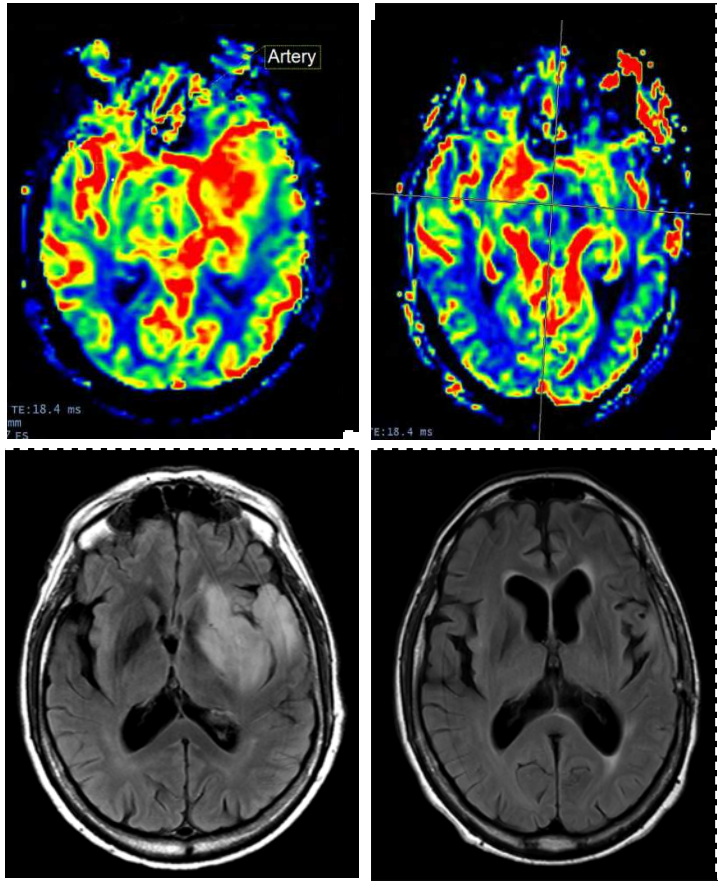
Lower treatment dose with Imvax antisense: 48-year-old male, construction contractor from Caribbean, stage IV glioblastoma



10 months post vaccination:
Complete resolution of enhancement
in both tumor and ventricles

Recent Case Study 3

Higher treatment dose: 67-year-old female, self-employed entrepreneur, stage IV glioblastoma

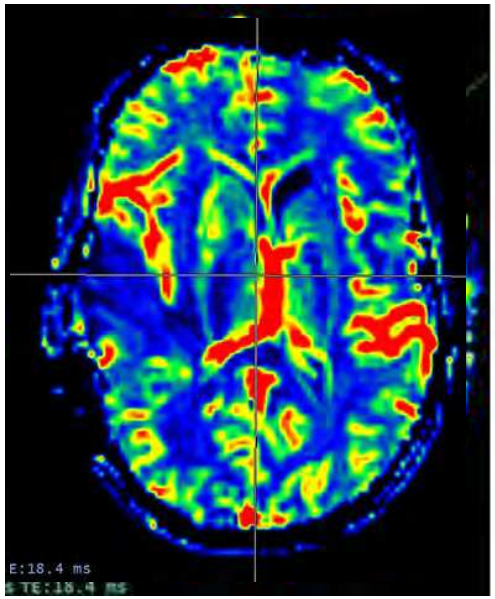


With perfusion

MRI at one year
Axial enhanced above
FLAIR below

Recent Case Study 4

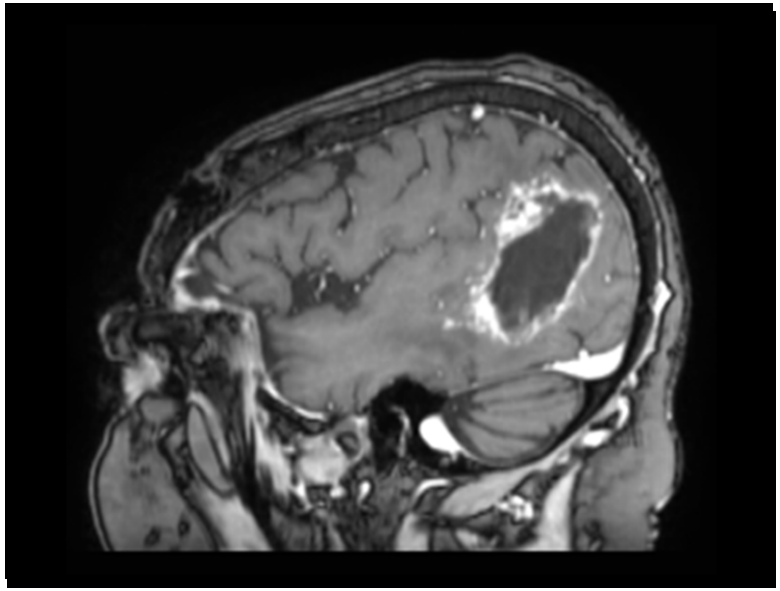
Highest treatment dose: 52-year-old female, surgical nurse, stage IV glioblastoma



3 months post vaccination: dramatic decrease in rCBV

Recent Case Study 5

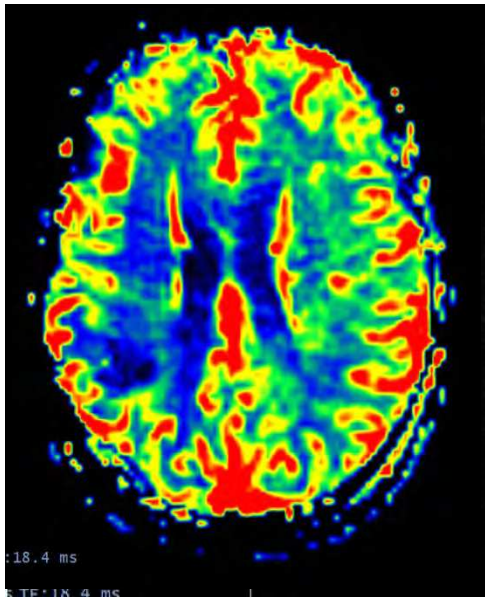
Lowest treatment dose with Imvax antisense: 65 year-old female, vaccinated, local recurrence, revaccinated, stage IV glioblastoma



4 mo after 2nd vaccination; no evidence of tumor progression

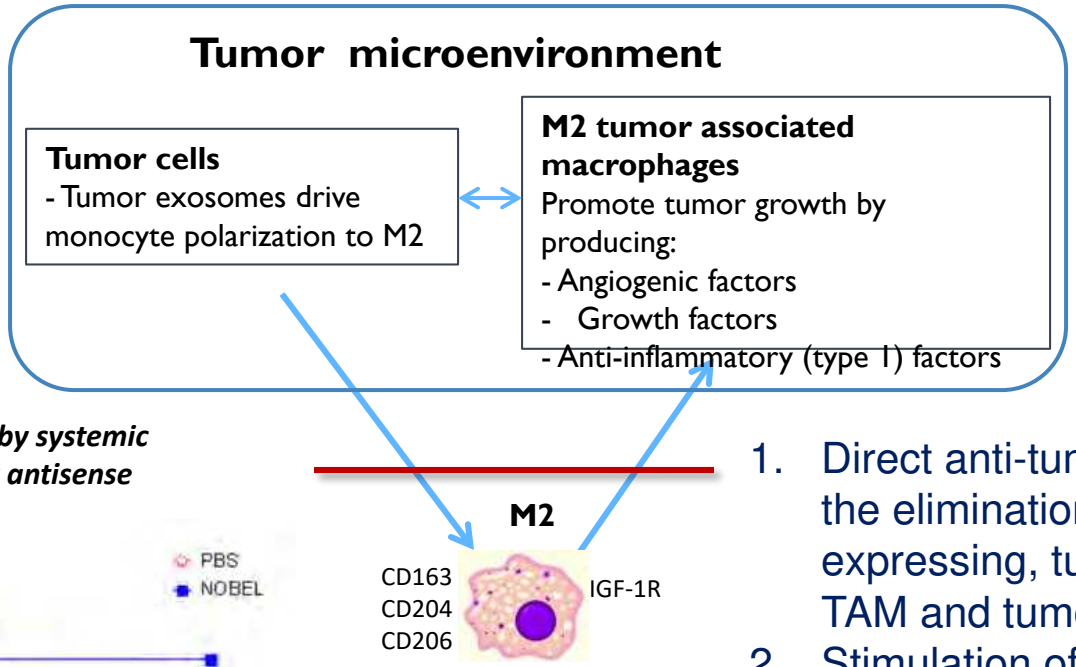
Recent Case Study 6

Lower treatment dose with Imvax antisense: 74 year-old male, retired engineer

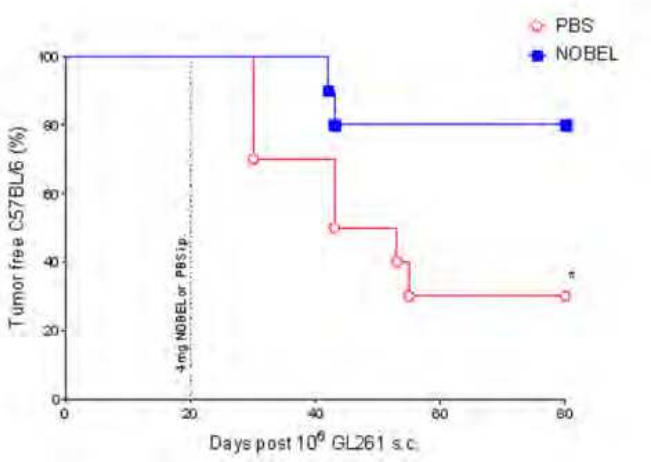


Same axial slice, with
Perfusion sequence

Intervention against M2 macrophages by ***systemic*** treatment with Imvax antisense



Depletion of M2 cells by systemic treatment with Imvax antisense

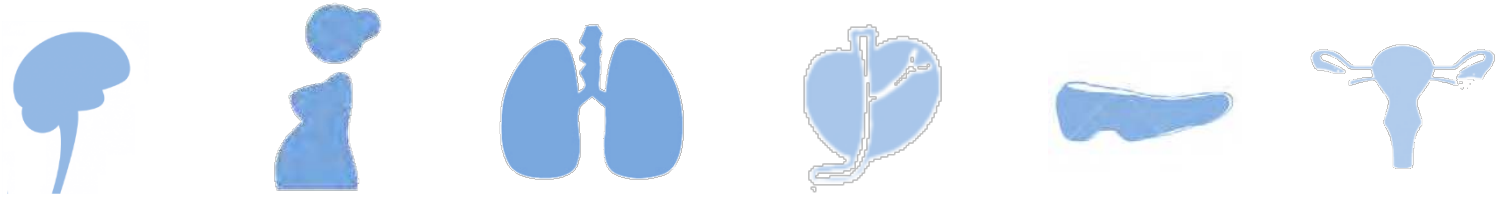


1. Direct anti-tumor effects through the elimination of IGF-1R expressing, tumor-promoting M2 TAM and tumor cells*
2. Stimulation of anti-tumor immunity by the elimination of immunomodulatory M2 cells in the periphery

*note that this aspect of the therapy is active regardless of whether or not the subject is immunocompetent

Further Opportunity in Other Cancers

CD163+ TAM cells are the principle supporting cell in the following cancers:



Cancer Type	Brain (glioma)	Breast	Lung	Prostate	Pancreatic	Ovarian
New Cases each year (data from American Cancer Society, American Lung Association, GlobalData)	20,000	292,130	221,200	221,200	53,070	22,000
Market Spending (data from National Institutes of Health/ National Cancer Institute)	$250 M	$10.5 B	$9 B	$13 B	$1.63 B	$4.7 B

Imvax's Technology Platform Rollout

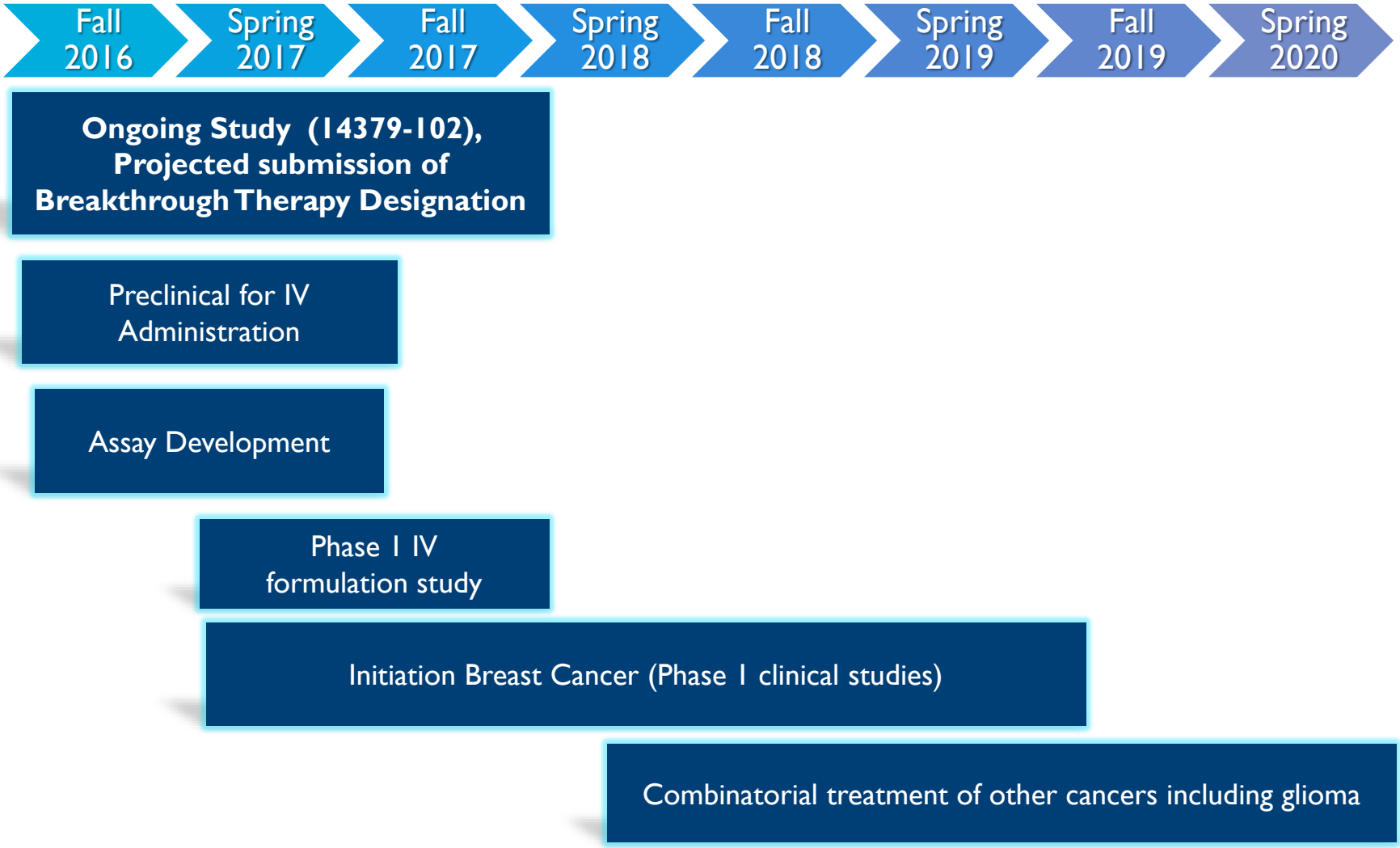
- Over the next 18-24 months, Imvax will accelerate commercial development of its drug platform to create sustainable value with focus on:
  - Clinical development for New Drug Applications (NDAs)
  - Preclinical Research for other dosage forms
  - Strong IP
  - Regulatory Strategy
  - Commercial relevance
- Imvax will likely leverage its platform to multiple partners, including:

Budget

	Projected Study ONLY Costs
Ongoing Clinical Study (14379-102)	$1,000,000
Preclinical for IV Administration	$1,000,000
Assay Development ‡	$1,000,000
Phase 1 IV formulation study (For breast cancers, or potentially any cancer)*	$3,000,000
Initiation Breast Cancer Phase I clinical studies*	$3,400,000
Manufacture new drug lot	$600,000
G&A	$2,000,000
Total	$12,000,000
Development of a liposomal formulation (for glioma)	$70,000
Phase 2 Newly Diagnosed GBM	$30,000,000
Phase 2 Recurrent GBM (Multi Center approach)	$20,000,000

* NDA Partners, LLC ‡William Hitchings, PhD

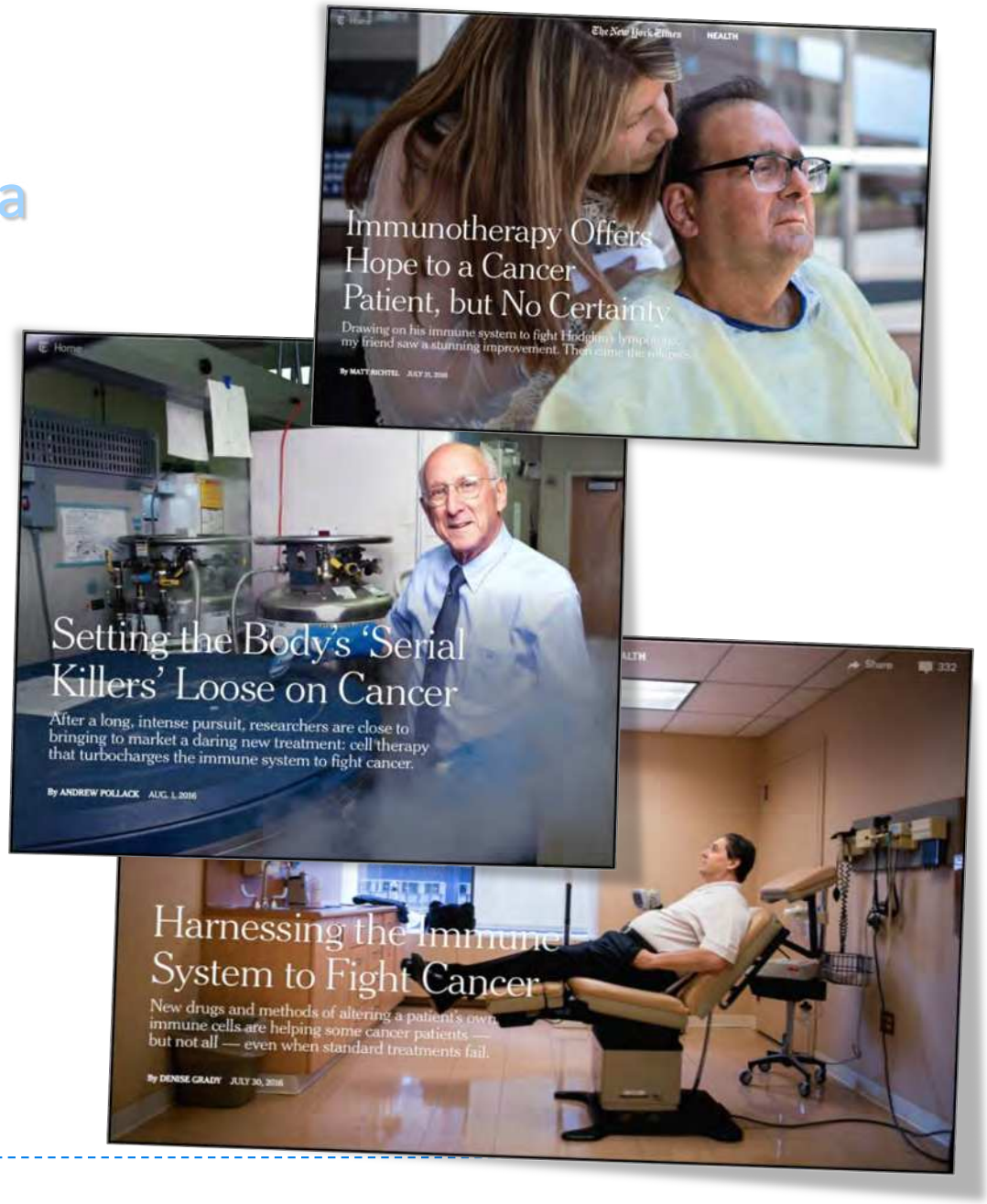
Projected Timeline

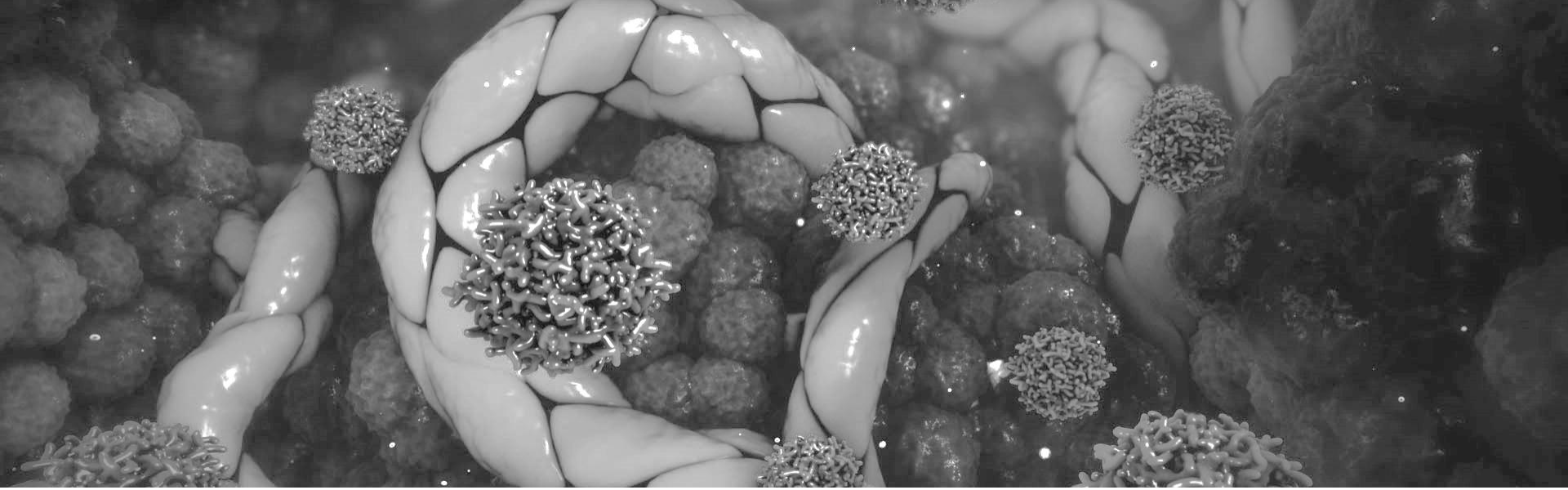


Imvax –

The Time is Now.
The Place is Philadelphia

- Promising approach to immunotherapy cancer treatment
- Aligned with leading scientific research institution
- World class scientists.
- Based in medical innovation hub





Appendix

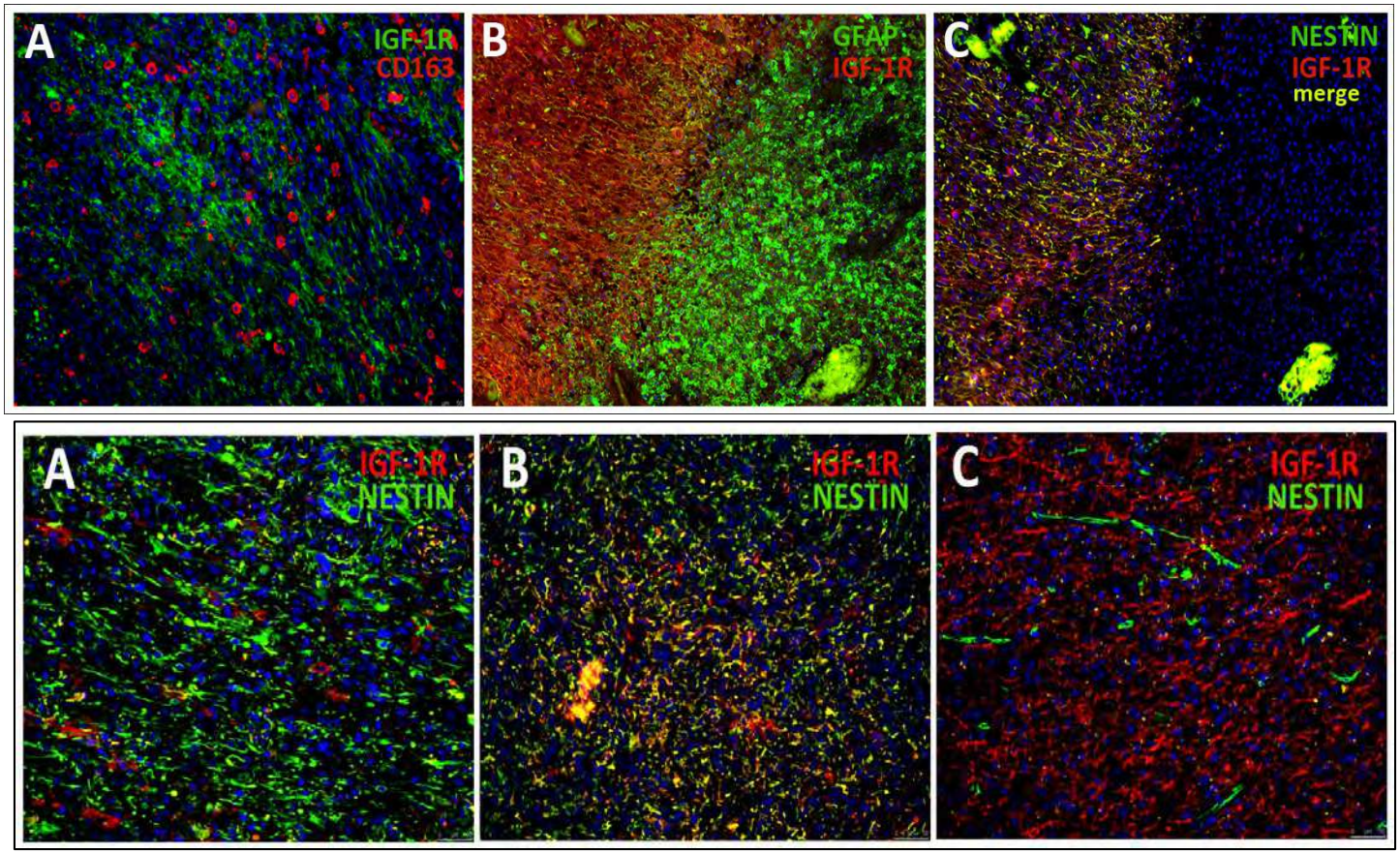
Additional Details and Team Information

Intellectual Property

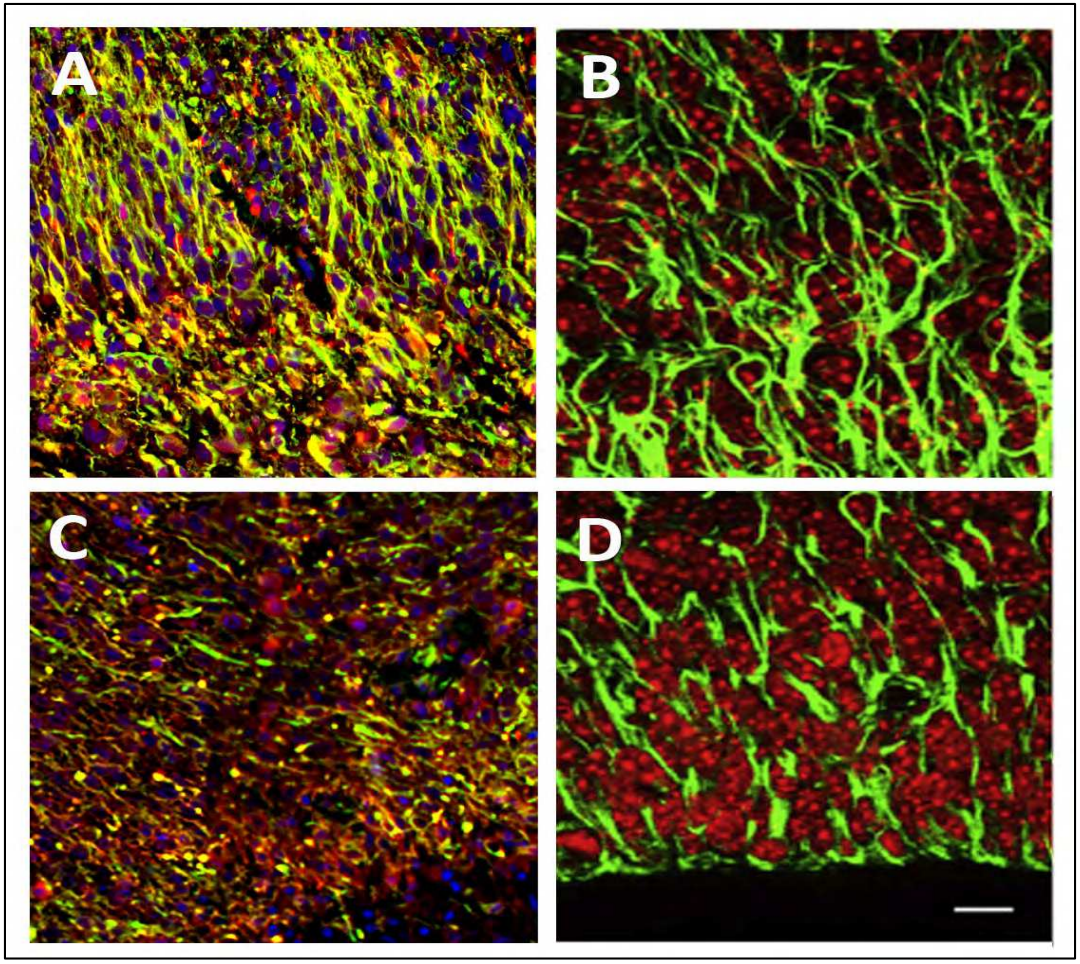
- Imvax has acquired a global license to IP and know-how from Thomas Jefferson University:
- Pending US (Serial No. 15/095,877) and PCT (PCT/US2014/026970) applications
- "Methods and Compositions for Treating Cancers and Enhancing Therapeutic Immunity by Selectively Reducing Immunomodulatory M2 Monocytes"
- Patent term to 2036 expected
  - Claims directed to:
    - Multiple forms of administration
    - Multiple forms of solid tumor cancers: glioma, breast cancer, lung cancer prostate cancer, head and neck squamous cell cancer, ovarian cancer, colon and colorectal cancer
    - Multiple forms of benign tumors: meningioma and acoustic neuroma
    - Various non-neoplastic diseases: psoriasis, irritable bowel syndrome, Alzheimer's disease, and Type II diabetes

Intellectual Property 2

- US provisional patent IMVX-003/01US filed September 21, 2016: Methods and Compositions for Treating Cancers and Enhancing Therapeutic Immunity by Selectively Reducing Nestin+ Tumor Stem Cells

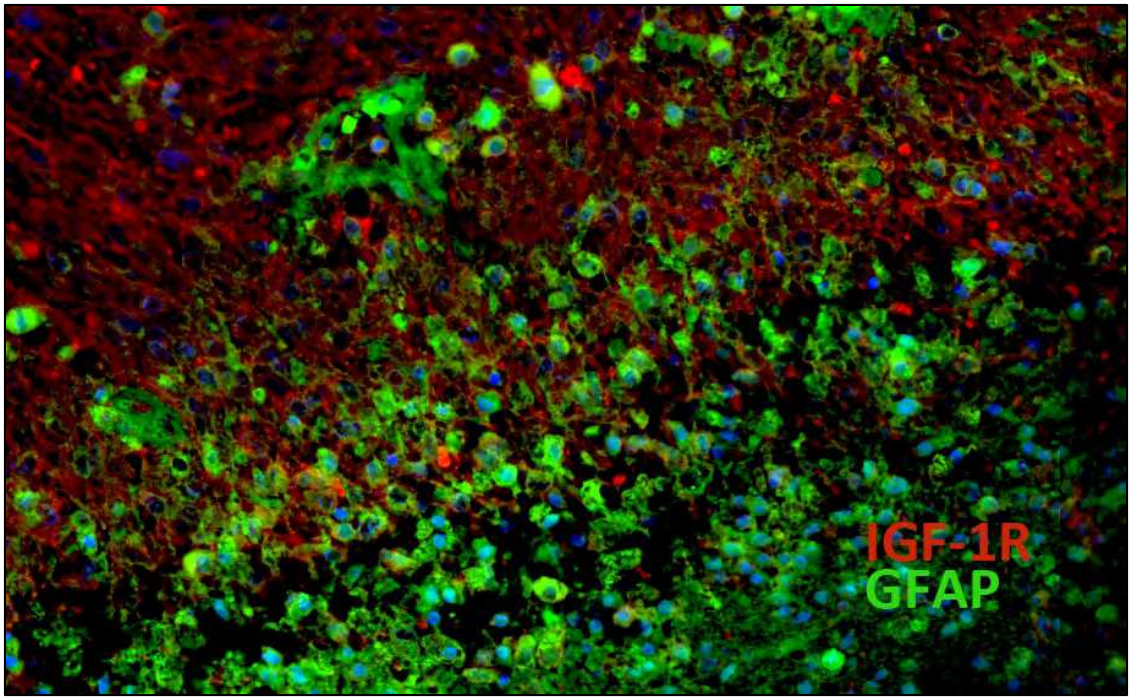


Intellectual Property 2



- Nestin+ cells in gliomas are embryonic stem cells called radial glial cells (never before documented).

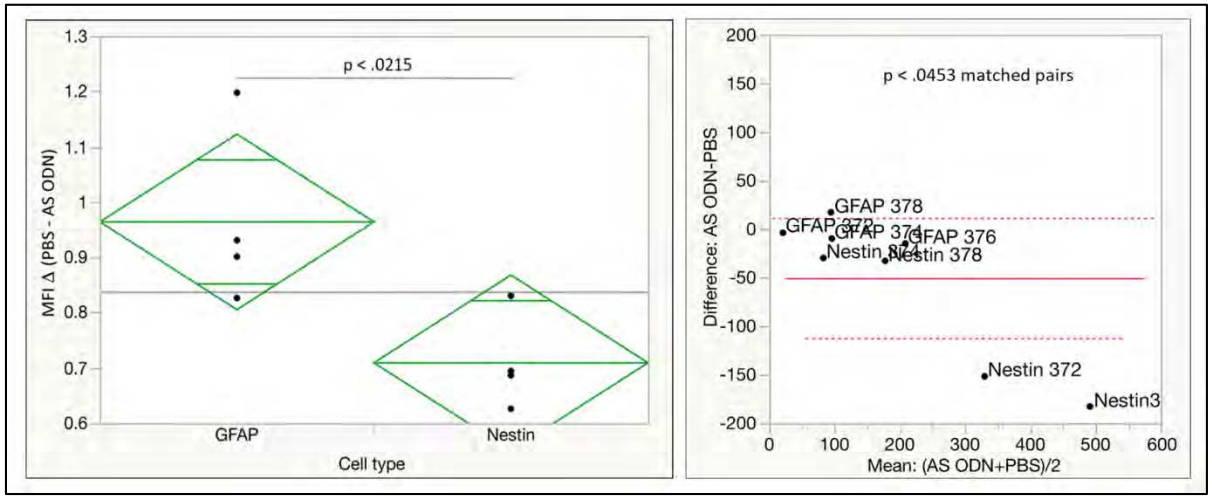
Intellectual Property 2

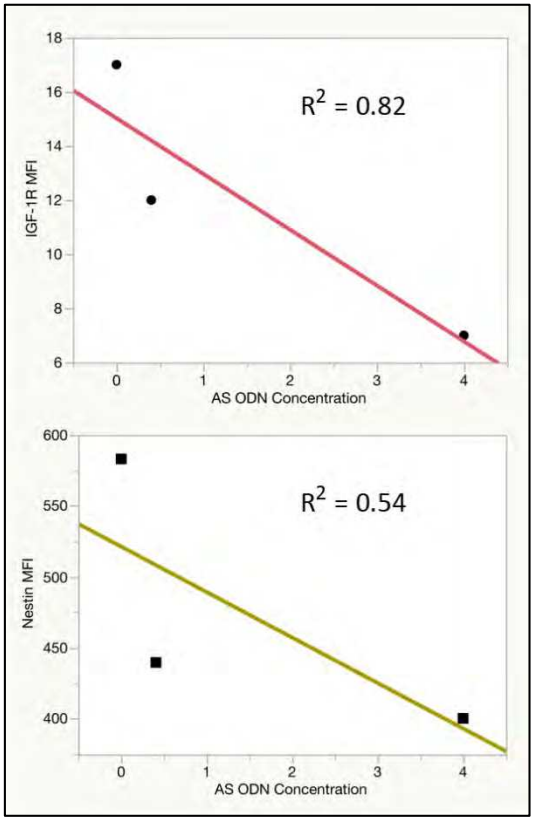


- The radial glial stem cells give rise To the GFAP+ glioma cell that no longer expresses IGF-1R or nestin

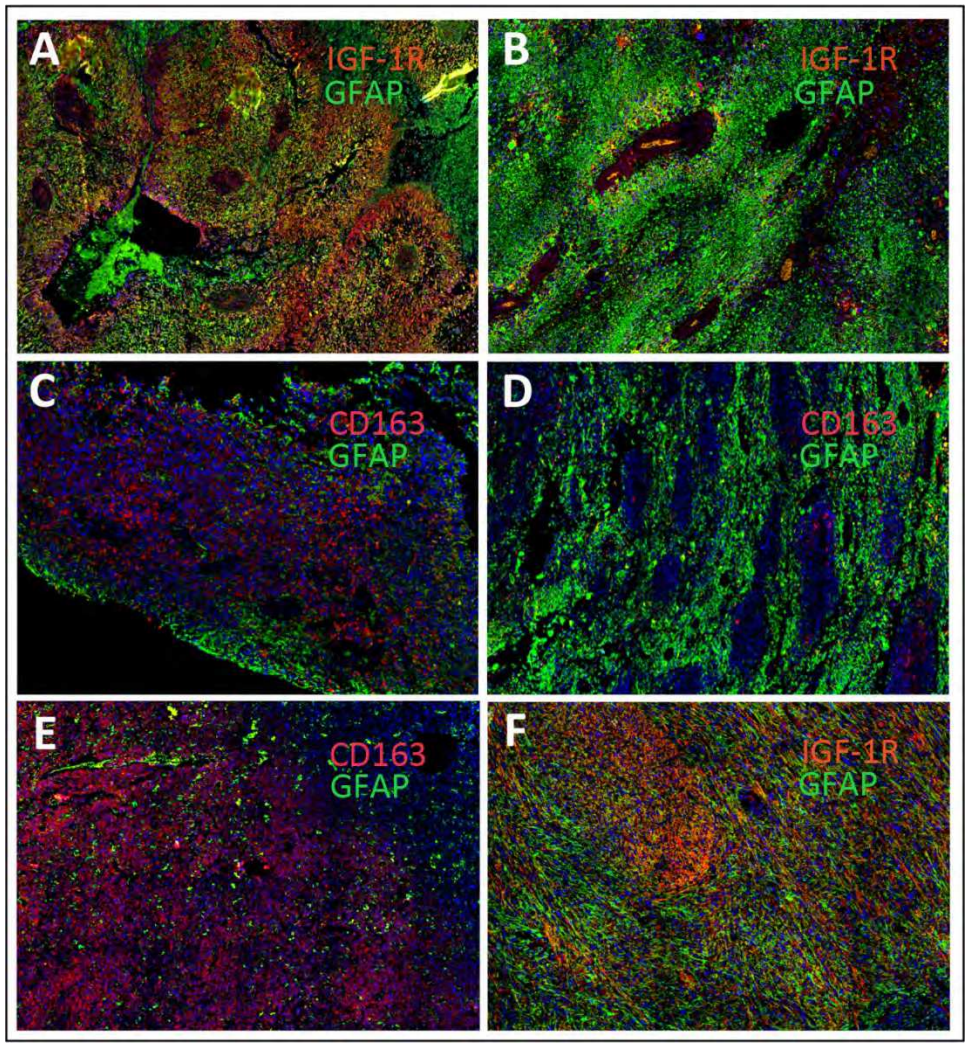
Intellectual Property 2

- Targeting nestin+ cells from freshly resected gliomas with Imvax antisense knocks down the nestin+ cells without affect the GFAP+ glioma cells





Intellectual Property 2



- Elimination of both CD163 TAMs and IGF-1R stem cells is seen after Imvax antisense treatment

Human Clinical Update

Phase	Study #	Subjects	Size	Findings	Drug Related Toxicity
1	6776 Completed	Recurrent Glioma	12	Radiographic improvements in 8/12	None
1	14379-101 Completed	Recurrent Glioma	12	Radiographic improvements associated with immune response and prolonged protocol survival in 4/12	None
1 (including dose ranging)	14379-102 (ongoing)	Newly Diagnosed Gliomas	12/32	Consistent pro-inflammatory responses with radiographic improvements	None

Imvax Team

- Imvax has assembled a world class team of scientific, medical and business expertise:

Dr. David Andrews:

Internationally known academic neurosurgeon with over 25 years of brain tumor research

Dr. Craig Hooper

World renowned immunologist focused on mechanisms pertaining to immune modulation and neuro-immunology

Dr. Yvonne Greenstreet, MBChB, MBA

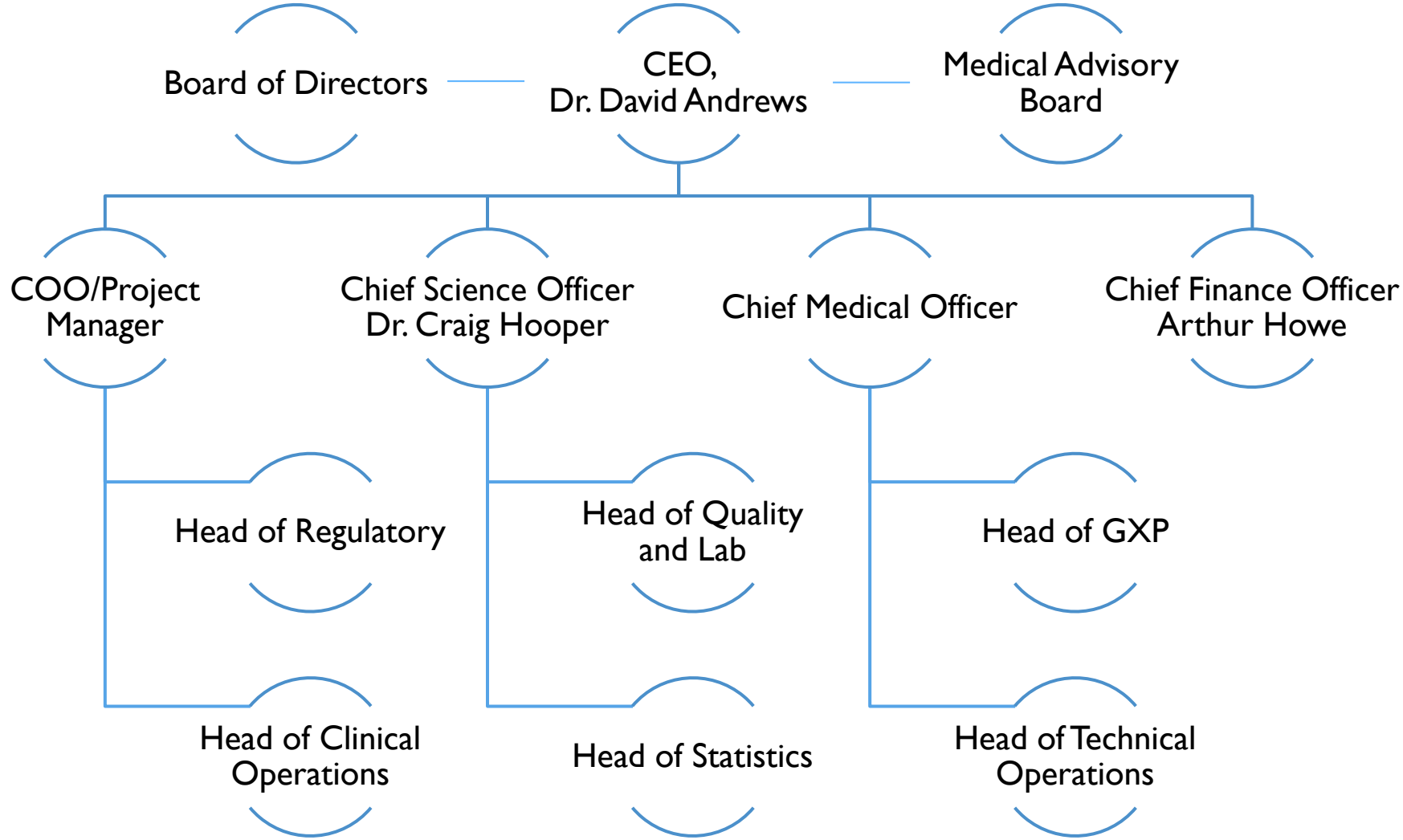
Former head of Medicines Development at Pfizer and head of R&D strategy and investment at GSK

Mr. Art Howe

Pulitzer Prize winning writer, publisher and owner/CEO of more than 50 media companies and startups including Verve Mobile

Dr. William Hitchings

Organizational Chart



Medical Advisory Board

- Dr. John R. Adler, MD, Dorothy and TK Chan Professor, Emeritus, Stanford University
- Dr. Stuart Grossman, MD, Professor of Medical Oncology, Johns Hopkins University; Chairman Adult Brain Tumor Consortium
- Dr. Linda Liau, MD/PhD, Professor of Neurosurgery, UCLA; Director of the UCLA Brain Tumor Program
- Dr. Walter J. Curran, MD, Executive Director, Winship Cancer Institute; Lawrence W. Davis Professor and Chairman, Radiation Oncology, Emory University; Group Chairman, NRG Oncology
- Dr. Jason Huse, MD, neuropathologist at Memorial Sloan Kettering Cancer Center

Imvax's Competitive Context

- Novel immuno-oncology are transforming the survival outcomes of patients and creating companies with enormous value based on early clinical data. To date, these companies have focused on blood cancers like lymphoma and leukemia.

- Imvax is the only company developing a novel antisense/vaccine approach for solid cancers, the area of greatest medical need which are found in 90 percent of patients.

Immuno-oncology Companies

- **Large Pharma**
- BMS: Marketing Opdivo, a PD1 checkpoint inhibitor. Potential sales $6bn per year
- Roche: Developing a TAM antibody in Phase 1, validating the Imvax mechanism
- **Emerging Biotech**
- Juno Therapeutics: developing T cell immunotherapy in Phase 2. Market Cap $3.6bn
- Kite Pharma: developing T cell immunotherapy in Phase 2. Market Cap $3bn

Standout cancer licensing deals in 2015

- Sanofi/Regeneron, PD-1 in Phase 1, $640 M upfront, $1.0 Bn milestones
- Celgene/Medimmune, PD-L1 in Phase 3, $450 M upfront, profit share
- Medimmune/Innate, Phase 2, $250 M upfront, $0.9 Bn milestones
- Merck Serono/Intrexon, CAR-T, $115 M upfront, $.8 Bn milestones

Pearls

3

Comparison of three approaches for inhibiting insulin-like growth factor I receptor and their effects on NSCLC cell lines *in vitro*

DARIA COSACEANU[1], MIA CARAPANCEA[1], OANA ALEXANDRU[1], RALUCA BUDIU[1], HANNA-STINA MARTINSSON[1], MARIA STARBORG[1], MARIA VRABETE[2], LENA KANTER[1], ROLF LEWENSOHN[1], & ANICA DRICU[1]

[1]*Department of Oncology–Pathology, Cancer Center Karolinska and Radiumhemmet Karolinska Institute/Hospital, R8:00, S-171 76 Stockholm, Sweden, and* [2]*Department of Pathophysiology, University of Medicine and Pharmacy, Craiova, Romania*

(Received 11 October 2005; revised 23 February 2006)

Abstract

The insulin-like growth factor-1 receptor (IGF-1R) mitogenic signaling mediates malignant cell survival by many complex and redundant pathways. This study compared the effects of IGF-1R inhibition on viability and apoptosis of two NSCLC cell lines, using three different methods for the impairment of IGF-1R function: (IR3, an anti-IGF-1R antibody; tyrphostin AG1024, a tyrosine kinase inhibitor (TKI) and IGF-1R-small interfering RNA (siRNA). IGF-1R inhibition led to a decrease of cell survival and induced apoptosis in a manner depending on the approach used for the receptor inhibition. To find an explanation, we analyzed the effects of these treatments on three major antiapoptotic pathways evoked by IGF-1R signaling: IRS-1, Shc and 14.3.3-dependent mitochondrial translocation of Raf-1 kinase (mitRaf). (IR3 downregulated IRS-1 phosphorylation in A549 cells and Shc phosphorylation in U1810 cells. While in A549 cells AG1024 treatment decreased both IRS-1 and Shc phosphorylation, in U1810 cells the IRS-1 phosphorylation was only slightly affected and the Shc phosphorylation drastically downregulated. Neither (IR3 nor AG1024 had any effect on Raf-1 kinase translocation. Irrespective of the cell line, IGF-1R-siRNA treatment induced downregulation of both IRS-1 and Shc phosphorylation coupled with the abrogation of mitRaf. In addition, the IGF-1R-siRNA proved to be the most potent inducer of apoptosis suggesting that more than one antiapoptotic pathway in IGF-1R signaling should be inhibited to effectively induce apoptosis in lung cancer cells.

Keywords: *Insulin-like growth factor 1 receptor, lung cancer, apoptosis, TKIs*

EXHIBIT F

PAYCHEX

Direct Deposit Enrollment/Change Form

Company Name Imvax, Inc. **Client Number**_____

Employee/Worker Name Arthur W. Howe **Employee/Worker Number**_____

EMPLOYEE/WORKER: Retain a copy of this form for your records. Return the original to your employer.

EMPLOYERS: Return this form to your local Paychex office. For clients using on-line services, please retain a copy of this document for your records.

COMPLETE TO ENROLL / ADD / CHANGE BANK ACCOUNTS – *PLEASE PRINT IN BLACK/BLUE INK ONLY*

Type of Account	Routing/Transit Number	Checking/Savings Account Number*	Financial Institution ("Bank") Name	I wish to deposit (check one):
☐ Checking ☐ Savings				☐ _____ % of Net ☐ Specific Dollar Amount $ _____.00 ☐ Remainder of Net Pay
☐ Checking ☐ Savings				☐ _____ % of Net ☐ Specific Dollar Amount $ _____ .00 ☐ Remainder of Net Pay

COMPLETE IF CHANGING EXISTING DEPOSIT AMOUNTS – *PLEASE PRINT IN BLACK/BLUE INK ONLY*

Routing/Transit Number	Checking/Savings Account Number*	Financial Institution ("Bank") Name	Change My Deposit Amount to:
			☐ From _____% to____% of Net ☐ From $_____ .00 To $_____.00 ☐ Remainder of Net Pay
			☐ From _____% to____% of Net ☐ From $_____ .00 To $_____.00 ☐ Remainder of Net Pay

EMPLOYEE/WORKER CONFIRMATION STATEMENT

PLEASE SIGN IN BLACK/BLUE INK ONLY

I authorize my employer to deposit my wages/salary into the bank accounts specified above and, if necessary, to electronically debit my account to correct erroneous credits. I certify my account(s) allow these transactions. I agree that direct deposit transactions I authorize comply with all applicable laws. My signature below indicates that I am agreeing that I am either the accountholder or have the authority of the accountholder to authorize my employer to make direct deposits into the named account.

Employee/Worker Signature Arthur W. Howe **Date** April 27, 2017

Note: Digital or Electronic Signatures are **not** acceptable.

One of the following is required to process this enrollment (check one):

☒ Voided check with name imprinted (no starter checks)

☐ Deposit slip (only accepted if the verbiage "ACH R/T" appears before the routing number)

☐ Bank letter or specification sheet (the signature of your local bank representative MUST be included)

☐ Other Bank Documentation from your Financial Institution – If this box is checked the employer must sign this confirmation:

I confirm that the above named employee/worker has added or changed a bank account for direct deposit transactions processed by Paychex, Inc.

Employer Printed Name: Arthur W. Howe

Employer Signature: Arthur W. Howe **Date** _____

***Certain accounts may have restrictions on deposits and withdrawals. Check with your bank for more information specific to your account.**

DP0002 7/16

Form Expires 7/30/19

EXHIBIT G

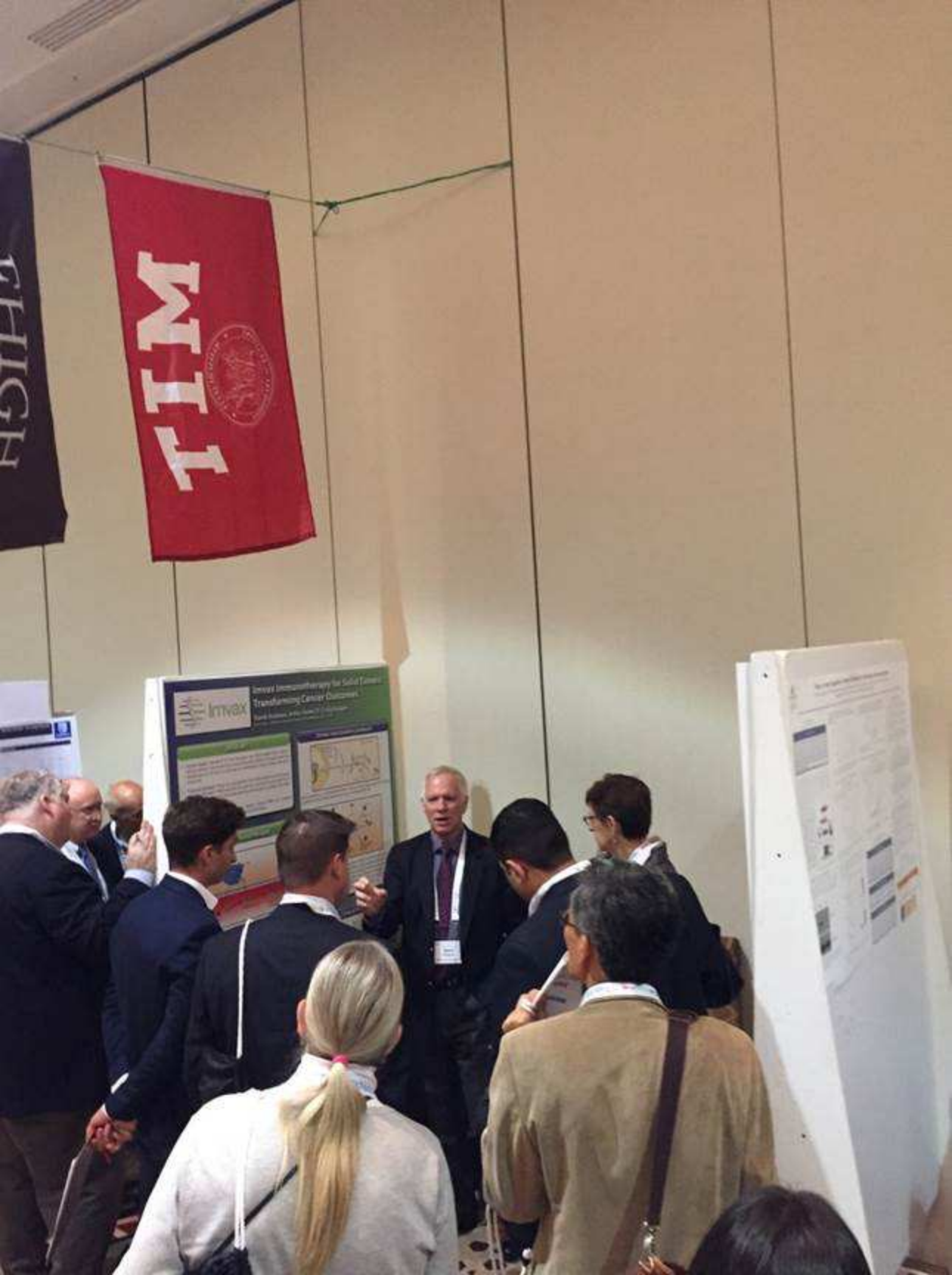

TIM
Imvax

EXHIBIT H

VENABLE LLP

600 MASSACHUSETTS AVE., NW WASHINGTON, DC 20001
T 202.344.4000 F 202.344.8300 www.Venable.com

Rebecca A. Liebowitz
(202) 344-4976
rliebowitz@venable.com

December 11, 2019

VIA email [rmoss@mmwr.com]
Richard L. Moss
Montgomery McCracken Walker & Rhodes LLP
1735 Market Street
21st Floor
Philadelphia, PA 19103-7505

Re: Trademark Application in the name of Imvax, Inc.
IMVAX - Serial No. 87/934,880
Our Reference: 60895-506313

Dear Richard:

As you are undoubtedly aware, our client has filed an opposition against the above-referenced mark. While we appreciate your client's willingness to amend its identification of goods and services, our client remains concerned that the marks are too similar and that confusion is highly likely to occur. Given that the marks are both in the medical field, and recognizing the heightened risks involved with confusion in this space, our client must insist that your client discontinue its use of the IMVAX mark and withdraw its application for the same.

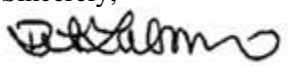
We previously noted that Imvax's mark is completely contained in Enesi's IMPLAVAX mark, and the only difference between the marks is the presence of -PLA- between IM and VAX. This minor difference is insufficient to obviate the likelihood of confusion, especially since the marks in their entireties have highly similar commercial impressions. Furthermore, your client's goods and services are close enough to Enesi's field (if not identical) as to be inextricable in the minds of consumers; they will undoubtedly be linked.

While Enesi remains hopeful for an amicable resolution, it is prepared to take the necessary steps to prevent both the use and registration of the IMVAX mark. In short, this matter is of great importance to Enesi, and they will not hesitate to take all steps necessary to protect their trademark rights.

With that in mind, please advise if your client will agree to Enesi's request, in which case we will move to suspend the opposition proceeding and prepare a settlement agreement.

This letter is written without prejudice to Enesi's legal rights and remedies, all of which are specifically reserved.

Sincerely,



Rebecca A. Liebowitz

RAL/CSM
Enclosures

EXHIBIT I

From: Liebowitz, Rebecca <RLiebowitz@Venable.com>
Sent: Wednesday, January 15, 2020 5:17 PM
To: Moss, Richard <RMoss@mmwr.com>
Cc: Zaher, Alfred <AZaher@mmwr.com>; Mitros, Catherine S. <CSMitros@Venable.com>; Krajicek, Kathleen <KKrajicek@mmwr.com>
Subject: RE: Trademark Application in the Name of Imvax, Inc. - (60895-506313) Subject to FRE 408

Unfortunately it doesn't as I need confirmation from them as well as instructions regarding how long of an extension they would be agreeing to; I'll let you know as soon as I hear from them but it appears they are in transit right now.

Regards,
Becky

Rebecca Liebowitz, Esq. | Co-Chair, Trademark, Copyright & Licensing | Venable LLP
t 202.344.4976 | f 202.344.8300
600 Massachusetts Avenue, NW, Washington, DC 20001

RLiebowitz@Venable.com | www.Venable.com

From: Moss, Richard <RMoss@mmwr.com>
Sent: Wednesday, January 15, 2020 5:10 PM
To: Liebowitz, Rebecca <RLiebowitz@Venable.com>
Cc: Zaher, Alfred <AZaher@mmwr.com>; Mitros, Catherine S. <CSMitros@Venable.com>; Krajicek, Kathleen <KKrajicek@mmwr.com>
Subject: RE: Trademark Application in the Name of Imvax, Inc. - (60895-506313) Subject to FRE 408

Hi Becky:

Does this help?

From: David Hipkiss <David.Hipkiss@enesipharma.com>
Sent: Wednesday, January 15, 2020 7:23:41 AM
To: John Furey <jpfurey@imvax.com>
Cc: Andy Bush <Andy.Bush@enesipharma.com>; David Hipkiss <David.Hipkiss@enesipharma.com>
Subject: JPM Meeting Follow Up - ImplaVax Trademark and Enesi

Good morning John,

Thank you for your time during our brief meeting yesterday.

We look forward to reaching a timely and mutually acceptable solution to the matter in hand.

Please note we will be returning to the UK this evening.

Kind regards

David Hipkiss
Chief Executive Officer
Enesi Pharma Limited

T: +44 (0)1235 577 121
M: +44 (0)7968 707 072
www.enesipharma.com

From: Liebowitz, Rebecca <RLiebowitz@Venable.com>
Sent: Wednesday, January 15, 2020 5:04 PM
To: Moss, Richard <RMoss@mmwr.com>
Cc: Zaher, Alfred <AZaher@mmwr.com>; Mitros, Catherine S. <CSMitros@Venable.com>; Krajicek, Kathleen <KKrajicek@mmwr.com>
Subject: RE: Trademark Application in the Name of Imvax, Inc. - (60895-506313) Subject to FRE 408

****CAUTION** External Email**

Hi Richard – I am waiting on confirmation from my client regarding the meeting and will be in touch as soon as I have it.

Regards,
Becky

Rebecca Liebowitz, Esq. | Co-Chair, Trademark, Copyright & Licensing | Venable LLP
t 202.344.4976 | f 202.344.8300
600 Massachusetts Avenue, NW, Washington, DC 20001

RLiebowitz@Venable.com | www.Venable.com

From: Moss, Richard <RMoss@mmwr.com>
Sent: Tuesday, January 14, 2020 5:23 PM
To: Liebowitz, Rebecca <RLiebowitz@Venable.com>
Cc: Zaher, Alfred <AZaher@mmwr.com>; Mitros, Catherine S. <CSMitros@Venable.com>; Krajicek, Kathleen <KKrajicek@mmwr.com>
Subject: RE: Trademark Application in the Name of Imvax, Inc. - (60895-506313) Subject to FRE 408

Hi Becky:

I understand that our respective clients met today in San Francisco and that their discussion was amicable. It is now up to us to confer with our clients and devise a pathway to a resolution.

With the meeting precondition now met, please let us have your early consent to a 60 day extension to answer the opposition?

Thank you,
Richard

From: Moss, Richard
Sent: Friday, January 10, 2020 12:18 PM
To: 'Liebowitz, Rebecca' <RLiebowitz@Venable.com>
Cc: Zaher, Alfred <azaher@mmwr.com>; Mitros, Catherine S. <CSMitros@Venable.com>; Krajicek, Kathleen <kkrajicek@mmwr.com>
Subject: RE: Trademark Application in the Name of Imvax, Inc. - (60895-506313) Subject to FRE 408

That works. My assistant, Kathy, will send a dial-in.

From: Liebowitz, Rebecca [mailto:RLiebowitz@Venable.com]
Sent: Friday, January 10, 2020 12:03 PM
To: Moss, Richard
Cc: Zaher, Alfred; Mitros, Catherine S.
Subject: RE: Trademark Application in the Name of Imvax, Inc. - (60895-506313) Subject to FRE 408

Hi Richard --- how about 3:30?

Regards,
Becky

Rebecca Liebowitz, Esq. | Co-Chair, Trademark, Copyright & Licensing | Venable LLP
t 202.344.4976 | f 202.344.8300
600 Massachusetts Avenue, NW, Washington, DC 20001

RLiebowitz@Venable.com | www.Venable.com

From: Moss, Richard <RMoss@mmwr.com>
Sent: Friday, January 10, 2020 11:55 AM
To: Liebowitz, Rebecca <RLiebowitz@Venable.com>
Cc: Zaher, Alfred <AZaher@mmwr.com>; Mitros, Catherine S. <CSMitros@Venable.com>
Subject: RE: Trademark Application in the Name of Imvax, Inc. - (60895-506313) Subject to FRE 408

Hi Becky:

Further to our VM, what is your availability for a call today with Alfred and me after 3:00?

Regards,
Richard

From: Liebowitz, Rebecca [mailto:RLiebowitz@Venable.com]
Sent: Friday, January 10, 2020 8:51 AM
To: Moss, Richard
Cc: Zaher, Alfred; Mitros, Catherine S.
Subject: RE: Trademark Application in the Name of Imvax, Inc. - (60895-506313) Subject to FRE 408

****CAUTION** External Email**

Hi Richard,

It does not appear that IMVAX's CEO has responded. Specifically, David Hipkiss (CEO of Enesi) offered to meet with John Fury at the JP Morgan Annual Healthcare Conference (occurring January 13-16th in San Francisco), but he has not received a reply.

Mr. Hipkiss arrives in the US on Saturday and is available to meet on Sunday; Monday-Wednesday are busy with other meetings, but he will make time if necessary so that he can meet with Mr. Fury. If Imvax is not attending the conference in person, Enesi would like to have a substantive discussion (with an agenda and minutes) before January 18; once this occurs, they will consent to an extension.

However, if Imvax is not willing to have a business to business discussion before the deadline, Enesi would prefer the proceedings continue as scheduled.

Regards,
Becky

Rebecca Liebowitz, Esq. | Co-Chair, Trademark, Copyright & Licensing | Venable LLP
t 202.344.4976 | f 202.344.8300
600 Massachusetts Avenue, NW, Washington, DC 20001

RLiebowitz@Venable.com | www.Venable.com

From: Moss, Richard <RMoss@mmwr.com>
Sent: Wednesday, January 8, 2020 11:58 AM
To: Liebowitz, Rebecca <RLiebowitz@Venable.com>
Cc: Zaher, Alfred <AZaher@mmwr.com>
Subject: Re: Trademark Application in the Name of Imvax, Inc. - (60895-506313) Subject to FRE 408

Hi Becky:

As you know, Enesi's CEO asked for a direct discussion with IMVAX's CEO - I don't know if that happened yet.

Do we have your consent to a 60 day extension to answer the opposition initially due the 18th?

Thanks,
Richard

Sent from my iPhone

On Jan 8, 2020, at 11:43 AM, Liebowitz, Rebecca <RLiebowitz@venable.com> wrote:

****CAUTION** External Email**

Happy new year Richard; we look forward to hearing from you regarding the attached.

Regards,
Becky

Rebecca Liebowitz, Esq. | Co-Chair, Trademark, Copyright & Licensing | Venable LLP
t 202.344.4976 | f 202.344.8300
600 Massachusetts Avenue, NW, Washington, DC 20001

RLiebowitz@Venable.com | www.Venable.com

From: Liebowitz, Rebecca <RLiebowitz@Venable.com>
Sent: Wednesday, December 11, 2019 6:52 PM
To: Moss, Richard <RMoss@mmwr.com>
Cc: Li, Shawn <SLi@mmwr.com>; Mitros, Catherine S. <CSMitros@Venable.com>
Subject: Re: Trademark Application in the Name of Imvax, Inc. - (60895-506313) Subject to FRE 408

Hi Richard,

Please find our correspondence dated today.

Regards,
Becky

Rebecca Liebowitz, Esq. | Co-Chair, Trademark, Copyright & Licensing | Venable LLP
t 202.344.4976 | f 202.344.8300
600 Massachusetts Avenue, NW, Washington, DC 20001

RLiebowitz@Venable.com | www.Venable.com

From: Liebowitz, Rebecca <RLiebowitz@Venable.com>
Sent: Thursday, October 24, 2019 3:23 PM
To: Moss, Richard <RMoss@mmwr.com>
Cc: Li, Shawn <SLi@mmwr.com>; Mitros, Catherine S. <CSMitros@Venable.com>
Subject: RE: Trademark Application in the Name of Imvax, Inc.

Hi Richard -I'll let you know when I hear back from my client.

Regards,
Becky

Rebecca Liebowitz, Esq. | Co-Chair, Trademark, Copyright & Licensing | Venable LLP
t 202.344.4976 | f 202.344.8300
600 Massachusetts Avenue, NW, Washington, DC 20001

RLiebowitz@Venable.com | www.Venable.com

From: Moss, Richard <RMoss@mmwr.com>
Sent: Thursday, October 24, 2019 3:01 PM
To: Liebowitz, Rebecca <RLiebowitz@Venable.com>
Cc: Li, Shawn <SLi@mmwr.com>; Mitros, Catherine S. <CSMitros@Venable.com>
Subject: RE: Trademark Application in the Name of Imvax, Inc.

Hi:

Just following up.

Regards,
Richard

From: Liebowitz, Rebecca [mailto:RLiebowitz@Venable.com]
Sent: Friday, October 04, 2019 1:54 PM
To: Moss, Richard
Cc: Li, Shawn; Mitros, Catherine S.
Subject: RE: Trademark Application in the Name of Imvax, Inc.

Thanks –we'll be in touch.

Rebecca Liebowitz, Esq. | Co-Chair, Trademark, Copyright & Licensing | Venable LLP
t 202.344.4976 | f 202.344.8300
600 Massachusetts Avenue, NW, Washington, DC 20001

RLiebowitz@Venable.com | www.Venable.com

From: Moss, Richard [mailto:RMoss@mmwr.com]
Sent: Friday, October 04, 2019 1:48 PM
To: Liebowitz, Rebecca <RLiebowitz@Venable.com>
Cc: Li, Shawn <SLi@mmwr.com>; Mitros, Catherine S. <CSMitros@Venable.com>
Subject: RE: Trademark Application in the Name of Imvax, Inc.

FOR SETTLEMENT PURPOSES

Hi:

We propose to limit the scope of Imvax's trademark application (App. Serial No. 87/934,880) as follows:

Int. Class 5: Biological preparations for the treatment of cancer; pharmaceutical preparations for the treatment of cancer; pharmaceutical products for the prevention and treatment of cancer, **all the foregoing excluding vaccines used to prevent diseases other than cancer**.

Int. Class 10: [**to be deleted**]

Int. Class 42: Research and development in the pharmaceutical and biotechnology fields **for the prevention and treatment of cancer**; providing medical and scientific research information in the field of pharmaceuticals and clinical trials **for the prevention and treatment of cancer**.

Int. Class 44: Providing a web site featuring medical information **on the prevention and treatment of cancer**.

This proposal incorporates limitations that both Teva (as owner of the IVAX mark) and Sanofi (as owner of the IMOVAX mark) have indicated would be acceptable to them.

Looking forward to your reply.

Best,
Richard

From: Liebowitz, Rebecca [mailto:RLiebowitz@Venable.com]
Sent: Friday, October 04, 2019 1:14 PM
To: Moss, Richard
Cc: Li, Shawn; Mitros, Catherine S.
Subject: RE: Trademark Application in the Name of Imvax, Inc.

Hi Richard – can you please let us know what the proposed amended identification would be after the limitations are added vis-à-vis Sanofi and Teva.

Thanks,
Becky

Rebecca Liebowitz, Esq. | Co-Chair, Trademark, Copyright & Licensing | Venable LLP
t 202.344.4976 | f 202.344.8300
600 Massachusetts Avenue, NW, Washington, DC 20001

RLiebowitz@Venable.com | www.Venable.com

From: Liebowitz, Rebecca
Sent: Wednesday, October 02, 2019 5:01 PM
To: 'Moss, Richard' <RMoss@mmwr.com>

Cc: Li, Shawn <SLi@mmwr.com>; Mitros, Catherine S. <CSMitros@Venable.com>
Subject: RE: Trademark Application in the Name of Imvax, Inc.

Thanks Richard; we will speak with the client and be in touch.

Rebecca Liebowitz, Esq. | Co-Chair, Trademark, Copyright & Licensing | Venable LLP
t 202.344.4976 | f 202.344.8300
600 Massachusetts Avenue, NW, Washington, DC 20001

RLiebowitz@Venable.com | www.Venable.com

From: Moss, Richard [mailto:RMoss@mmwr.com]
Sent: Wednesday, October 02, 2019 11:29 AM
To: Liebowitz, Rebecca <RLiebowitz@Venable.com>
Cc: Li, Shawn <SLi@mmwr.com>; Mitros, Catherine S. <CSMitros@Venable.com>
Subject: RE: Trademark Application in the Name of Imvax, Inc.

Hi Becky:

Since we spoke, I've heard back from Sanofi's counsel. Sanofi is willing to resolve matters in exchange for some additional limitations to the recitations in class 5. Also, I confirmed with my client that it would be willing to drop class 10 to settle matters with Enesi. As Teva is already on board with amendments to the recitation of services in my client's application, let me know if Enesi is ready to settle this.

Thanks,
Richard

From: Liebowitz, Rebecca [mailto:RLiebowitz@Venable.com]
Sent: Friday, September 20, 2019 12:03 PM
To: Moss, Richard; Krajicek, Kathleen
Cc: 'bob@pfeilsticker.com'; Li, Shawn; Hurst, Ronald; Mitros, Catherine S.
Subject: RE: Trademark Application in the Name of Imvax, Inc.

Thanks Richard – that works. I'll wait for your call then.

Regards,
Becky

Rebecca Liebowitz, Esq. | Co-Chair, Trademark, Copyright & Licensing | Venable LLP
t 202.344.4976 | f 202.344.8300
600 Massachusetts Avenue, NW, Washington, DC 20001

RLiebowitz@Venable.com | www.Venable.com

From: Moss, Richard [mailto:RMoss@mmwr.com]
Sent: Friday, September 20, 2019 11:39 AM
To: Liebowitz, Rebecca <RLiebowitz@Venable.com>; Krajicek, Kathleen <KKrajicek@mmwr.com>
Cc: 'bob@pfeilsticker.com' <bob@pfeilsticker.com>; Li, Shawn <SLi@mmwr.com>; Hurst, Ronald <rhurst@mmwr.com>; Mitros, Catherine S. <CSMitros@Venable.com>
Subject: RE: Trademark Application in the Name of Imvax, Inc.

How about 2:00 pm on Wed. 9/25?

From: Liebowitz, Rebecca [mailto:RLiebowitz@Venable.com]
Sent: Thursday, September 19, 2019 6:01 PM
To: Moss, Richard; Krajicek, Kathleen
Cc: 'bob@pfeilsticker.com'; Li, Shawn; Hurst, Ronald; Mitros, Catherine S.
Subject: RE: Trademark Application in the Name of Imvax, Inc.

Hi Richard –this week is a bit tricky; next week is better. I'm available

Wednesday 9/25: after 11:30 am EST
Thursday 9/26: before 11 am EST or 12 – 3 pm EST
Friday 9/27: 11:30 – 2 pm EST

Please let me know if any of those work for you.

Regards,
Becky

Rebecca Liebowitz, Esq. | Co-Chair, Trademark, Copyright & Licensing | Venable LLP
t 202.344.4976 | f 202.344.8300
600 Massachusetts Avenue, NW, Washington, DC 20001

RLiebowitz@Venable.com | www.Venable.com

From: Moss, Richard [mailto:RMoss@mmwr.com]
Sent: Thursday, September 19, 2019 11:04 AM
To: Liebowitz, Rebecca <RLiebowitz@Venable.com>; Krajicek, Kathleen <KKrajicek@mmwr.com>
Cc: 'bob@pfeilsticker.com' <bob@pfeilsticker.com>; Li, Shawn <SLi@mmwr.com>; Hurst, Ronald <rhurst@mmwr.com>; Mitros, Catherine S. <CSMitros@Venable.com>
Subject: RE: Trademark Application in the Name of Imvax, Inc.

Hi Rebecca:

Do you have availability for a call this week to discuss?

Regards,
Richard Moss

From: Liebowitz, Rebecca [mailto:RLiebowitz@Venable.com]
Sent: Thursday, September 19, 2019 10:06 AM
To: Krajicek, Kathleen
Cc: 'bob@pfeilsticker.com'; Li, Shawn; Moss, Richard; Hurst, Ronald; Mitros, Catherine S.
Subject: RE: Trademark Application in the Name of Imvax, Inc.

Dear Kathy,

Please let us know when we can expect to hear from you regarding this matter.

Regards,
Becky

Rebecca Liebowitz, Esq. | Co-Chair, Trademark, Copyright & Licensing | Venable LLP
t 202.344.4976 | f 202.344.8300
600 Massachusetts Avenue, NW, Washington, DC 20001

RLiebowitz@Venable.com | www.Venable.com

From: Krajicek, Kathleen [mailto:KKrajicek@mmwr.com]
Sent: Monday, July 29, 2019 9:33 AM
To: Liebowitz, Rebecca <RLiebowitz@Venable.com>
Cc: 'bob@pfeilsticker.com' <bob@pfeilsticker.com>; Li, Shawn <SLi@mmwr.com>; Moss, Richard <RMoss@mmwr.com>; Hurst, Ronald <rhurst@mmwr.com>
Subject: FW: Trademark Application in the Name of Imvax, Inc.

Re: Trademark Application 87/934,880 for IMVAX

Dear Ms. Liebowitz,

Please see the attached sent on behalf of Shawn S. Li, Ph.D.

Many thanks.

Kathy

<image001.png>
Kathleen Krajicek | Legal Administrative Assistant
Montgomery McCracken Walker & Rhoads LLP
1735 Market Street | Philadelphia, PA 19103-7505
Tel: 215-772-7293 | Fax: 215-731-3766 | kkrajicek@mmwr.com | www.mmwr.com

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<12-11 IMVAX Letter.pdf>

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