

## **Merus Prevails in Inequitable Conduct Case Against Regeneron**

August 10, 2015 1:36 PM ET

• *Court ruling further strengthens Merus' freedom to operate in using transgenic mice for therapeutic human antibodies*

*Utrecht, The Netherlands, August 10, 2015* — Merus, a leader in developing best-in-class bispecific antibody therapeutics to treat cancer patients, today announced that it won its inequitable conduct trial against Regeneron. In a decision issued on Thursday, August 6, Judge Katherine B. Forrest of the U.S. District Court for the Southern District of New York indicated that Regeneron engaged in inequitable conduct in connection with obtaining U.S. Patent No. 8,502,018. This marks the third counterclaim upon which Merus has prevailed in this litigation, initiated by Regeneron. In December 2014, Regeneron conceded that Merus does not infringe any claim of the '018 patent, and that the patent is invalid in view of the Court's prior decision on claim construction. Given the Court's ruling on August 6, Regeneron's patent has now been adjudged to be not infringed, invalid and unenforceable for being procured by inequitable conduct.

In that decision, the Court noted that Regeneron's agents had withheld material information from the United States Patent Office (USPTO) during prosecution of the '018 patent. The Court further concluded that an adverse inference that Regeneron's employees intentionally mislead the U.S. Patent Office was appropriate and "that Regeneron engaged in inequitable conduct in connection with the prosecution of the '018 patent."

"We are very pleased with the Court's decision in our favor," said Ton Logtenberg, CEO of Merus. "From the outset Merus maintained that the '018 patent is invalid, not infringed and was procured by inequitable conduct. And despite Regeneron's concession on two of those points, Merus felt compelled to press its inequitable conduct claim because as a U.S. patent-holder itself, Merus does not believe that Regeneron's patent should have been permitted to issue and interfere with any company's legitimate business. This case has imposed substantial burden on Merus, which was clearly unjustified. Our company remains uniquely positioned to develop best-in-class bispecific antibody therapeutics for the treatment of cancer patients."

### **About Merus B.V.**

Merus is a Dutch biotechnology company developing cancer therapeutics based on human bispecific antibodies. Merus' bispecific antibodies have the robust and proven full-length IgG format, they are manufactured using industry standard processes and have predictable in vivo behavior such as long half-life and low immunogenicity. Merus has two lead programs in development, MCLA-128 for the treatment of HER2 expressing solid tumors, and MCLA-117 for the treatment of acute myeloid leukemia and myelodysplastic syndrome. The company is also developing a broad pipeline of preclinical programs in immuno-oncology using its unique technology platforms. Please visit [www.merus.nl](http://www.merus.nl).

### **Media Inquiries for Merus:**

akampion

Dr. Ludger Wess or Ines-Regina Buth

Tel. +49 (0)40 88 16 59 64 / +49 (0)30 2363 2768

info@akampion.com

### **Company Inquiries for Merus:**

Merus B.V.

S. Margetson – s.margetson@merus.nl

Padualaan 8

3584CH Utrecht, The Netherlands