

02-11-2004

PATENTS ONLY

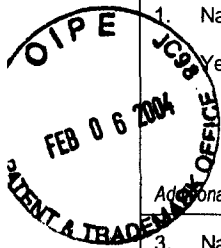
PATENTS ONLY

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1. Name of conveying party(ies)
Yeda Research and Development Company Limited

2/6/04

Additional name(s) of conveying party(ies) attached? [] Yes [XX] No

2. Name and Address of receiving party(ies)
Name: (1) Zelig Eshhar
Address: (1) Department of Immunology
The Weizmann Institute of Science
POB 26
Rehovot 76100
Israel

Additional name(s) & address(es) attached? [XX] Yes [] No

3. Nature of conveyance:
[X] Assignment [] Change of Name [] Other _____
[] Security Agreement [] Merger

Execution Date: January 15, 2004

4. Application number(s) or patent number(s). If this document is being filed together with a new application, the execution date of the application is: _____
Date

A. Patent Application No(s).

08/084,994

B. Patent No(s).



Additional numbers attached? [] Yes [XX] No

5. Name and address of party to whom correspondence concerning document should be mailed:

BROWDY AND NEIMARK, P.L.L.C.
624 Ninth Street, N.W.
Suite 300
Washington, D.C. 20001-5303

6. Number of applications and patents involved:
One (1)

7. PTO Form-2038 in the amount of \$40.00 is attached.

8. If insufficient fees are attached to accomplish the present order, please charge any necessary additional fees to Deposit Account 02-4035.

02/10/2004 3DIRETA1 00000002 08084994

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9. Statement and Signature.
To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Roger L. Browdy (Reg. No. 25,618)

Name of Person Signing

Signature

February 6, 2004

Date

RLB:rd

Total number of pages including cover sheet [12]

(2) Tova Waks
Keren Kayemet 12
Petach Tikva 49372
Israel

(3) Gideon Gross
Moshav Almagor
Doar Korazin 12340
Israel

ASSIGNMENT AGREEMENT

Made and entered into on this 18th day of January 2004

By and Between:

YEDA RESEARCH AND DEVELOPMENT COMPANY LIMITED

a company duly registered under the laws of Israel of
P O Box 95, Rehovot 76100, Israel

(hereinafter "**Yeda**")

and

Prof. Zelig Eshhar

of the Department of Immunology, The Weizmann
Institute of Science, POB 26, Rehovot 76100, Israel
and

Ms. Tova Waks

of Keren Kayemet 12, Petach Tikva 49372, Israel

and

Dr. Gideon Gross

of Moshav Almagor, Doar Korazin, 12340, Israel

(jointly and severally, "**the Scientists**")

WHEREAS:

- (A) in the course of research conducted at least in part at the Weizmann Institute of Science ("**the Institute**"), the Scientists, with the participation of Dr. Daniel Schindler, (the Scientists and Dr. Daniel Schindler, individually and collectively, "**the Inventors**") arrived at an invention entitled: "CHIMERIC GENES AND CELLS TRANSFORMED THEREWITH" (Yeda internal docket No. 9221) ("**the Invention**"), all as more fully described in Australian patent no. 668156 and European patent no. 0638119, validated in France, Great Britain, Germany, Italy, Netherlands and Switzerland, registered in the name of Yeda and the

U.S. Government ("**the Yeda Patents**") and PCT patent application publication no. WO 93/19163 and corresponding patent applications in Israel (application no. 92/101,288), Canada (application no. 2,132,349) and Japan (application no. 5-516,731), as well as U.S. patent application no. 08/084,994, each of which is currently owned by Yeda and the U.S. Government ("**the Yeda Patent Applications**"), ("**the Yeda Patents**" and "**the Yeda Patent Applications**", collectively, "**the Patents**"); and

- (B) by operation of Israeli law and/or under the terms of employment of the Inventors at the Institute and pursuant to an agreement between the Institute, Yeda and the Inventors, all right, title and interest in and to the Invention and the Patents vests in Yeda; and
- (C) Yeda has decided to discontinue the prosecution of the Yeda Patent Applications and not to file any other patent application in respect of the Invention in any other jurisdiction and to discontinue the maintenance of the Yeda Patents and not to further pursue interference procedure no. 103,887 ("**the Decision**"); and
- (D) Pursuant to clause 14 of the agreement signed between Yeda and the Public Health Service (the Office of Technology Transfer National Institutes of Health) ("**PHS**") on April 17, 1998 ("**the Agreement**", enclosed hereto as annexA)), a notice of the Decision was sent to PHS on May 26, 2003. PHS' failure to respond to such notice (after several reminders) within the time frame described in the Agreement (90 days), as well as NIH's communication of September 25, 2003, confirming NIH's determination not to accept the transfer of Yeda's rights to NIH, enables Yeda to assign to the Scientists its right, title and interest in and to the Invention and the Patents and allow the Scientists to continue the pursue interference procedure no. 103,887.
- (E) Yeda has offered to assign all its right, title and interest in and to the Invention and the Patents to the Inventors, all of the foregoing pursuant and subject to the rules of the Institute known as the "Rules of Intellectual Property and Conflict of Interests (Version 2001) (such rules, as amended from time to time, hereinafter "**the Institute Rules**"); and
- (F) The Scientists have elected to exercise their rights under the Institute Rules to receive assignment of Yeda's rights, subject to and in accordance with the terms and conditions set out in this Agreement but Dr. Daniel Shindler has elected not to exercise his rights under the Institute Rules to receive assignment of Yeda's rights as aforesaid; and
- (G) Yeda is willing to assign to the Scientists, and the Scientists are desirous of receiving an assignment of, all Yeda's rights, present and future, in respect of the Invention and the Patents, for the consideration, and subject to and in accordance with all the other terms and conditions set out in this Agreement; and

- (H) as a condition to such assignment, the Scientists, *inter alia*, shall be bound by and shall act in accordance with the Institute Rules, *inter alia*, with respect to the assignment of patents and patent applications to scientists of the Institute who are Inventors of any Institute Invention (as such terms are defined in the Institute Rules) and the royalties and other consideration payable to Yeda or to which Yeda is entitled in the event of such assignment, and with respect to the prevention of a conflict of interests between the obligations and duties of such scientists to the Institute and the interests and activities of the Institute on the one hand and the interests and activities of such scientists on the other.

NOW THEREFORE, IT IS HEREBY AGREED BETWEEN THE PARTIES AS FOLLOWS:

The Preamble and Appendices to this Agreement form an integral part thereof.

1. Assignment and Transfer

In consideration of the royalties and other sums to be paid by the Scientists to Yeda and the other consideration to be transferred to Yeda as set out in clause 2 below, Yeda hereby:

- 1.1. assigns and transfers to the Scientists all of the entire right, title and interest presently held by Yeda in and to the Invention within the United States of America, within each country for which a foreign application has been filed, and within territorial possessions thereof, and in and to any United States patents and foreign patents that may be granted therefor and in and to the said Yeda Patents and in and to the said U.S. and foreign Yeda Applications and in and to any and all divisions, reissues, and continuations (but not CIPs) thereof and in and to any and all U.S. and foreign patents that may be granted thereon, together with the right to extend the protection of such patents to the various territorial possessions now owned or which may be hereafter acquired by the country in which said patent is patented, together with the right, where such right can be legally exercised, to apply for and obtain patents in countries foreign to the United States, and the entire interest in any patents which may be granted on any such applications in such foreign countries, all said rights to be held and enjoyed by the Scientists for their own use and enjoyment and for the use and enjoyment of their successors, assigns, nominees or other legal representatives to the full end of the term or terms for which said patents may be granted as fully and entirely as the same would have been held and enjoyed by Yeda if this assignment, transfer and sale had not been made. It is agreed that all the costs and expenses (including legal fees and expenses) incurred in connection with the implementation of this clause 1.1 shall be borne by the Scientists exclusively; and

- 1.2. agrees to execute such further documents and do such further acts as may be reasonably necessary to give full effect to the terms of this Agreement, at the Scientists' sole expense.

2. Consideration

- 2.1. The Scientists shall pay to Yeda 25% (twenty-five percent) of all Proceeds and shall transfer to Yeda 25% (twenty-five percent) of all Proprietary Interests, after the deduction of Costs ("**the Consideration**").

For the purposes of this Agreement:

"Proceeds" shall mean all royalties and all other consideration of whatsoever nature and howsoever described (including without limitation, licence fees, royalties or other amounts paid in respect of sales or in respect of the granting of licenses, options and/or sublicenses, or the proceeds of the outright sale of any rights in and to the Invention and/or the Patents) which are actually received by the Scientists or any of them in connection with the commercialisation of the Invention and/or the Patents or any part thereof, excluding research grants or other research funding and the reimbursement of out-of-pocket expenses (which are not Patent costs);

"Proprietary Interest" shall mean any right of any kind, negotiable or otherwise and whether or not listed for trading on any stock exchange, in any entity or body, corporate or otherwise, including without limitation: (i) shares, stocks and other securities in such entity or body (including, securities convertible into equity or into options to equity); (ii) warrants, ADRs, options, and any other rights to acquire shares, stocks or other securities in such entity or body; and (iii) similar rights in such entity or body; granted, issued or transferred to the Scientists or to any of them, or to which the Scientists or any of them become entitled in connection with the commercialisation of the Invention and/or the Patents or any part thereof (by means of a licence, sale or otherwise); and

"Costs" shall mean: (a) the aggregate out-of-pocket costs and expenses expended by Yeda prior to the date of this Agreement in connection with the Patents (in the preparation, filing, prosecution and protection of the Yeda Patent Applications, and in the maintenance and protection of the Yeda Patents) in the sum of US \$94,557 (ninety four thousand five hundred fifty seven United States Dollars) ("**the Yeda Patent Costs**"), and reimbursed to Yeda pursuant to clause 2.6 below; and (b) all out-of-pocket costs and fees (as evidenced by invoices, receipts or other appropriate documents) incurred by the Scientists in connection with the preparation, filing, prosecution and maintenance of the Patents (to the extent that such costs and fees are not paid or reimbursed by any third party licensee); and in connection with the commercialisation of the Invention and/or the Patents (by means of a licence, sale or otherwise) .

2.2. The Consideration shall, in the case of Proceeds, be paid to Yeda in US Dollars no later than 30 (thirty) days after such Proceeds are received, and in the case of a Proprietary Interest, be transferred to Yeda, no later than 30 (thirty) days after such Proprietary Interest is received, accompanied with a report setting out details of all Proceeds and all Proprietary Interests (if any) received, all deductions therefrom as provided in clause 2.1 above, and the Consideration due to Yeda in respect of such Proceeds and/or Proprietary Interests.

2.3.

2.3.1. In the event that the Scientists are required under applicable law to withhold amounts from the payments to be made under clause 2.1 above on account of income tax, tax on profit or any other taxes of a similar nature imposed on Yeda by applicable law ("**the withholding tax**"), the Scientists shall immediately notify Yeda in writing of such requirement and shall, subject to the provisions of clause 2.3.2 below, deduct the withholding tax from the payments referred to above, as prescribed by applicable law, unless Yeda provides the Scientists with evidence of an exemption from withholding tax.

2.3.2. The Scientists shall make payment of the withholding tax (if any) deducted as aforesaid to the appropriate tax authorities within the period prescribed by applicable law and shall submit receipts or other documents issued by the tax authorities evidencing such payment, to Yeda within 7 (seven) days of payment thereof.

2.4. Without derogating from the Scientists' obligations under the Institute Rules, the Scientists shall notify Yeda in writing of any intention by the Scientists to grant any right, give any licence or enter into any agreement to or with any other person or entity with respect to the development and/or exploitation and/or commercialisation and/or licensing and/or sale and/or transfer of Invention and/or the Patents or any part thereof and shall provide Yeda with copies of the agreements and other documents pertaining to the foregoing, promptly upon the execution thereof. Without derogating from the foregoing, the Scientists shall notify Yeda in writing of any Proprietary Interest prior to becoming entitled thereto or to the acquisition thereof, and shall provide copies to Yeda of all agreements, options, warrants or other instruments under which the Scientists are granted, issued, transferred or is otherwise entitled to acquire such Proprietary Interest, promptly upon the execution thereof.

2.5. The Scientists shall provide Yeda with a yearly report in respect of the Consideration due to Yeda pursuant to this clause 2 above, containing details of the Proceeds and/or Proprietary Interests received, acquired or to which the Scientists or any of them become entitled, as the case may be. Unless the report indicates that there

have been no such Proceeds and/or Proprietary Interests during the period covered by the report, the report will be signed by an independent certified accountant.

- 2.6. The Scientist shall reimburse Yeda (by way of monetary payment) the Yeda Patent Costs from the first Proceeds and/or Proprietary Interest received by the Scientists. The reimbursement from the Proceeds shall be made within 14 (fourteen) days of receipt of any such Proceeds, and the reimbursement from the Proprietary Interest shall be made within 14 (fourteen) days of the date of such Proprietary Interest become exercisable. For the avoidance of doubt, in the case of receipt of Proceeds and/or Proprietary Interest as aforesaid, the Yeda Patent Costs shall be reimbursed to Yeda prior to any deductions (including any permissible deductions under clause 2.1 (iii) (b) above) or other payments from such Proceeds and/or other distribution of Proprietary Interest from such Proprietary Interest whatsoever.

3. **No Warranties**

Nothing contained in this Agreement shall be deemed to be a representation or a warranty by Yeda that the Yeda Patent Applications or any patent applications which may be filed by the Scientists relating to the Invention will be granted or that patents obtained on any of the said patent applications or the Yeda Patents are or will be valid or afford or will afford proper protection or that the Invention is or will be commercially exploitable or of any other value or that the exploitation of the Patents or the Invention will not infringe the rights of any third party.

4. **Indemnification**

Yeda, the Institute and the directors, officers and employees of Yeda and/or of the Institute shall not be liable for any claims, demands, liabilities, costs, losses, damages or expenses (including legal costs and attorneys' fees) of whatever kind or nature caused to or suffered by any person or entity that directly or indirectly arise out of or result from or are encountered in connection with the development, exploitation, commercialisation and/or use of the Invention or any part thereof.

5. **Termination and Remedies**

- 5.1. Without derogating from the parties' rights hereunder or by law to any other or additional remedy or relief, it is agreed that either Yeda or the Scientists (acting jointly) may terminate this Agreement by serving a written notice to that effect on the other upon or after the commitment of a material breach hereof by the other party, which breach cannot be cured or, if curable, which has not been cured by the party in breach within 30 (thirty) days (or, in the case of failure by the Scientists to pay any amount due from the Scientists to Yeda pursuant to or in connection with this Agreement on or before the due date of payment, 14 (fourteen) days) after receipt of a written notice

from the other party in respect of such breach. For the removal of doubt, it is recorded that none of the Scientists may terminate this Agreement pursuant to this clause 5.1 in the event of a material breach hereof by any other Scientist.

- 5.2. In the event that this Agreement is terminated by Yeda pursuant to clause 5.1 above, the Scientists shall, upon Yeda's request: (a) assign and transfer to Yeda all their right, title and interest in and to the Invention, the Patents and in and to any other intellectual property (if any) that the Scientists may have in respect of the Invention Patents; and (b) deliver to Yeda all designs, drawings, plans, diagrams, specifications, models or other documentation or media in its possession and control containing, representing or embodying the Invention and the Patents, unless previously assigned by the Scientists to a third party, in good faith.

6. **Confidentiality**

Yeda agrees to maintain in confidence all information or data relating to the Invention and the Patents, except and to the extent that: (i) any such information or data is in the public domain at the date of the signing hereof or becomes part of the public domain thereafter (other than through a violation by Yeda of this obligation of confidentiality) or is released by the Scientists from this obligation of confidentiality by notice in writing; (ii) Yeda is required to disclose such information in order to fulfill its obligations under this Agreement; (iii) Yeda is required to disclose such information in fulfilment of any legal duty owed to any competent authority; or (iii) any such information was independently developed by the Institute and/or Yeda without reference to the Invention.

7. **Notices**

All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given: (i) if personally delivered, when actually delivered; or (ii) if sent by facsimile, the next business day after receipt of confirmation of transmission; (iii) or 10 (ten) days after being mailed, certified or registered mail, return receipt requested, postage prepaid, to the respective addresses of the parties set out below, or to such other address or addresses as any of the parties hereto may from time to time in writing designate to the other party hereto pursuant to this clause 7.

- | | | |
|------|---------------------------|--|
| (i) | to Yeda at: | P.O. Box 95
Rehovot 76100, Israel
<i>Attention: the CEO</i>
<i>Facsimile:(08) 9470739</i> |
| (ii) | to Prof. Zelig Eshhar at: | Dept.of Immunolgy
The Weizmann Institute of
Science |

POB 26, Rehovot 76100,
Israel
Facsimile:(08)9474030

to Ms. Tova Waks at:

Keren Kayemet 12
Petach Tikva 49372
Israel

to Dr. Gideon Gross at:

Moshav Almagor
Doar Korazin, 12340, Israel

8. **Value Added Tax**

The Scientists shall pay to Yeda all amounts of Value Added Tax imposed on Yeda in connection with the transactions under this Agreement.

9. **Miscellaneous**

- 9.1. The headings in this Agreement are intended solely for convenience or reference and shall be given no effect in the interpretation of this Agreement.
- 9.2. This Agreement constitutes the entire agreement between the parties with respect to the subject-matter hereof and supersedes and replaces any understandings, agreements or representations, written or oral, between the parties relating to the subject-matter hereof. No addition or amendment to this Agreement shall be effective unless in writing and signed by the parties or their authorised signatories.
- 9.3. No waiver by any party hereto, whether express or implied, of its rights under any provision of this Agreement shall constitute a waiver of such party's rights under such provisions at any other time or a waiver of such party's rights under any other provision of this Agreement. No failure by any party hereto to take any action against any breach of this Agreement or default by another party hereto shall constitute a waiver of the former party's rights to enforce any provision of this Agreement or to take action against such breach or default or any subsequent breach or default by such other party.
- 9.4. All payments to be made to Yeda hereunder shall be made free and clear of and without any deduction for or on account of any set-off, counterclaim or tax, except as otherwise expressly provided in this Agreement.
- 9.5. Stamp duty (if any), payable in respect of this Agreement shall be borne by Yeda and the Scientists (jointly) in equal shares.



9.6. This Agreement shall be governed in all respects by the laws of Israel and the parties hereby submit to the exclusive jurisdiction of the competent Israeli courts.

9.7. None of the parties may assign all or any of its rights or obligations under this Agreement or arising therefrom without the prior written consent of the other party.

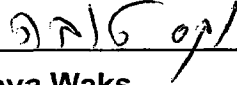
IN WITNESS WHEREOF, the parties have signed this Assignment Agreement on the date first mentioned above.

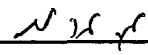
for: **YEDA RESEARCH AND
DEVELOPMENT COMPANY LTD.**


Prof. Zelig Eshhar

By:  

Title: **Dr. Isaac Shariv** Prof. Haim Garty
C.E.O. CHAIRMAN


Ms. Tova Waks


Dr. Gideon Gross

DECLARATION

Unless the context otherwise requires, any term capitalized in this declaration shall have the meanings as defined in the above Agreement.

I, the undersigned, Dr. Daniel Schindler hereby confirm that I have read the above Agreement and I confirm further that Yeda has offered to assign all its right, title and interest in and to the Invention and the Patents to the Inventors as set out in paragraph (E) of the preamble thereto.

I confirm that I do not wish to exercise my rights under the Institute Rules to receive assignment of Yeda's rights in and to the Invention and the Patents as aforesaid. I hereby agree that such rights may be assigned by Yeda to the Scientists exclusively, pursuant to the above Agreement, and I hereby irrevocably and unconditionally waive all rights or claims of whatsoever nature (whether present or future) with respect to or in connection with the Invention and the Patents, and with respect to any consideration of any nature whatsoever received by the Scientists or to which the Scientists may be entitled arising from the commercialisation thereof (including, without limitation, any Proceeds and any Proprietary Interests) and/or any consideration of any nature whatsoever received by Yeda or to which Yeda may be entitled under the above Agreement.


Dr. Daniel Schindler

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p.1

617-332-0783

Jan 04 04 09:05p Daniel Schindler