

AO 120 (Rev. 3/04)

TO: <b>Mail Stop 8</b> <b>Director of the U.S. Patent and Trademark Office</b> P.O. Box 1450 Alexandria, VA 22313-1450	<b>REPORT ON THE                  FILING OR DETERMINATION OF AN                  ACTION REGARDING A PATENT OR                  TRADEMARK</b>
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In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been filed in the U.S. District Court Delaware on the following  Patents or  Trademarks:

DOCKET NO. 07cv148	DATE FILED 3/14/2007	U.S. DISTRICT COURT DISTRICT OF DELAWARE
PLAINTIFF Cudon Devices Inc., et al.		DEFENDANT Blue Heron Biotechnology Inc.
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1	5,459,039	10/17/1995 Duke University
2	5,556,750	9/17/1996 Duke University
3	5,679,522	10/21/1997 Duke University
4	5,702,894	12/30/1997 Duke University
5	5,750,335	5/12/1998 Massachusetts Institute of Technology

In the above—entitled case, the following patent(s)/ trademark(s) have been included:

DATE INCLUDED	INCLUDED BY <input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading		
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK	
1			
2			
3			
4			
5			

In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT  See Attached Stipulation and Order of Dismissal
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CLERK PETER T. DALLEO, CLERK OF COURT	(BY) DEPUTY CLERK <i>Nicole M Selmyer</i>	DATE 10/14/2008
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Copy 1—Upon initiation of action, mail this copy to Director    Copy 3—Upon termination of action, mail this copy to Director  
 Copy 2—Upon filing document adding patent(s), mail this copy to Director    Copy 4—Case file copy

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

CODON DEVICES, INC., DUKE )  
UNIVERSITY, and the MASSACHUSETTS )  
INSTITUTE OF TECHNOLOGY, )

C.A. No. 07-148 (JJF)

Plaintiffs, )

v. )

BLUE HERON BIOTECHNOLOGY, INC., )

Defendant. )

**STIPULATION AND ORDER OF DISMISSAL**

The parties to the above-entitled action, by and through their respective attorneys, pursuant to Fed. R. Civ. P. 41(a)(1)(ii) hereby stipulate to dismiss this action in its entirety WITH PREJUDICE, subject to the terms and conditions of the Settlement and License Agreement by and between all parties, dated March 26, 2008. Each party shall bear its own costs, expenses and attorneys fees.

MORRIS, NICHOLS, ARSHT & TUNNELL, LLP

POTTER ANDERSON & CORROON LLP

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*/s/ Richard L. Horwitz*

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and Massachusetts Institute of  
Technology*

*Attorneys for Defendant,  
Blue Heron Biotechnology, Inc.*

SO ORDERED this 6 day of October, 2008.

*Joseph J. Fawcett, Jr.*