

*For Immediate Release*

**Frivolous Lawsuits Slow Innovation, as University Researchers With Big Ideas Make Lucrative Targets, Says IP Advocate Founder**

ATLANTA (April 21, 2010) – Her own lawsuit might be over, but her fight has just begun. Dr. Renee Kaswan, founder of IP Advocate ([www.IPAdvocate.org](http://www.IPAdvocate.org)) and former University of Georgia Veterinary Ophthalmology professor, recently settled her long-standing legal battle with the University of Georgia Research Foundation (UGARF). See companion news release in [IP Advocate's press room](#).

But she says her experience of being maliciously sued by her own university is not unusual for an academic inventor and, in fact, is so pernicious that the practice threatens the nation's ability to translate important scientific discoveries into inventions that will cure diseases and improve lives.

"I fought for 20 years to patent, license, and gain FDA approval for my invention – a treatment for chronic dry eye, which can cause blindness," said Dr. Kaswan. "But once approval came, the lawyers attacked and turned what had been a cooperative relationship between university and inventor into a contentious legal battle that lasted seven years. That is not the way to inspire innovation."

The settlement ends a seven-year dispute over a secret contract that UGARF entered with pharmaceutical company Allergan to market an ophthalmic formula including cyclosporine, to alleviate chronic dry eye disease by restoring normal tear function. Dr. Kaswan's invention is marketed as Restasis®, and is one of Allergan's top sellers.

The \$20.2 million that UGARF eventually paid Dr. Kaswan, according to the settlement, represented her inventor's share of the \$76 million in royalties that UGA received from Allergan. Under the original licensing deal Dr. Kaswan structured for the University of Georgia with Allergan, UGA would have received more than \$300 million and Dr. Kaswan would have received more than \$100 million.

But Allergan secretly persuaded UGARF to negotiate a buy-down deal behind closed doors, excluding Dr. Kaswan from renegotiations of her patents' license. UGARF agreed to

accept a severely undervalued monetization of its future royalties, drastically affecting the revenue flow to the university, the inventor and the taxpayers of Georgia.

### **An Inventor's Reward? Nuisance Lawsuits and Clandestine Deals**

In late 2002, UGARF agreed in writing to assign Dr. Kaswan the patents for her dry-eye treatments. Contracts were being drafted when the FDA surprised everyone by approving Allergan's Restasis for use on humans on Dec. 24, 2002. University officials immediately reneged on their promise and initiated a pitched legal battle against Kaswan and her company, KB Visions.

Litigators intercepted and stopped all direct communications between UGARF and Dr. Kaswan. They initiated a series of bad faith claims against Dr. Kaswan and KB Visions, falsely alleging that she was acting against their instructions and outside of the terms of the licensing agreement. They announced intent to retract her patent license agreement, and suspended royalty payments to Dr. Kaswan from January 2003 through July 2005, and September 2008 until the recent settlement.

UGA President Michael Adams secretly and falsely instructed the university's Board of Regents and IP Faculty Oversight Committee that Dr. Kaswan had elected litigation and forfeited her rights under UGA's non-legal dispute resolution procedures. This move by President Adams forced Dr. Kaswan to defend her IP equity rights in court, where Adams had the ability to exhaust her finances.

"This litigation was a smokescreen to conceal the secret dealings with Allergan, which resulted in the loss of \$220 million to the university and to the taxpayers of Georgia," said Dr. Kaswan.

Dr. Kaswan eventually filed a countersuit against UGARF and Allergan, claiming, among other things, that Allergan tortuously interfered with her employment contract and fiduciary relationship with UGA, and that UGARF and Allergan fraudulently conspired to convey her property for an unreasonably low price.

After seven years of litigation, Dr. Kaswan settled and received her inventors' share of royalties minus the legal fees UGARF deducted for suing her.

## **Dr. Kaswan: “Mine is Not an Isolated Case”**

Many landmark university discoveries – including the mass spectrometer, MRI, Pet Scan, Retin A, Taxol, Netscape, Sweet acidophilus milk, the AIDS cocktail and many others – devolved in protracted costly litigation.

“The drag of litigation related to university research is severely hampering our innovation economy and slowing our progress toward important medical and environmental advances,” said Dr. Kaswan.

Dr. Kaswan formed the grassroots organization, IP Advocate, to publicize rarely noticed corporate and university legal assaults on student and faculty inventors and discourage future lawsuits through the publicity. She already has discussed the plight of the academic inventor with President Obama’s Office of Science and Technology Policy, Senator Patrick Leahy’s office and the Center for American Progress – and plans to continue calling attention to the harmful effects frivolous lawsuits have on the nation.

“Sunshine is the best disinfectant,” said Dr. Kaswan. “Legal transgressions against student and faculty inventors take an enormous toll on the U.S. economy by distracting and discouraging entrepreneurial inventors from fully developing and commercializing their present and future innovations.”

### **About IP Advocate**

IP Advocate ([www.IPAdvocate.org](http://www.IPAdvocate.org)) is a non-profit organization that educates and empowers faculty researchers on patent rights and the process of commercialization – helping inventors protect their rights during the complex process of moving their inventions from the lab to the public marketplace. IP Advocate is a robust resource of information and best practices related to the commercialization of intellectual property. IP Advocate was founded by Dr. Renee Kaswan, inventor of Restasis® and a former research professor at the University of Georgia; and is led by executive director Rhaz Zeisler, an internationally recognized interactive media brand strategist, and former Walt Disney producer and IBM creative executive. IP Advocate is a 501(c)(3) organization, based in Atlanta.

###

### **Media Contact**

Ken Greenberg  
Edge Communications, Inc.  
818/990-5001  
[ken@edgecommunicationsinc.com](mailto:ken@edgecommunicationsinc.com)