

## Patent Infringement

### NANCY KRESS

Nancy Kress [[www.sff.net/people/nankress](http://www.sff.net/people/nankress)] lives in Silver Spring, Maryland. She is one of today's leading SF writers. She is known for her complex medical SF stories, and for her biological and evolutionary extrapolations in such classics as *Beggars in Spain* (1993), *Beggars and Choosers* (1994), and *Beggars Ride* (1996). In recent years, she has written *Maximum Light* (1998), *Probability Moon* (2000), and *Probability Sun* (2001), and last year published *Probability Space*, the final book in a trilogy of hard SF novels set against the background of a war between humanity and an alien race. Her stories are rich in texture and in psychological insight, and have been collected in *Trinity and Other Stories* (1985), *The Aliens of Earth* (1993) and *Beaker's Dozen* (1998). She has won two Nebulas and a Hugo for them, and been nominated for a dozen more of these awards.

"Patent Infringement," from Asimov's, is a short, amusing story told in memos and letters, about a guy whose genes are used to create a medicine. He asks for a share of the royalties. Pohl and Kornbluth, still the models in SF, were never more sharply satirical than this.

### PRESS RELEASE

Kegelman-Ballston Corporation is proud to announce the first public release of its new drug, Halitex, which cures Ulbarton's Flu completely after one ten-pill course of treatment. Ulbarton's Flu, as the public knows all too well, now afflicts upward of thirty million Americans, with the number growing daily as the highly contagious flu spreads. Halitex "fluproofs" the body by inserting genes tailored to confer immunity to this persistent and debilitating scourge, whose symptoms include coughing, muscle aches, and fatigue. Because the virus remains in the body even after symptoms disappear, Ulbarton's Flu can recur in a given patient at any time. Halitex renders each recurrence ineffectual by "fluproofing" the body.

The General Accounting Office estimates that Ulbarton's Flu, the virus of which was first identified by Dr. Timothy Ulbarton, has cost four billion dollars already this calendar year in medical costs and lost work time. Halitex, two years in development by Kegelman-Ballston, is expected to be in high demand throughout the nation.

New York Post

KC ZAPS ULBARTON'S FLU

NEW DRUG DOES U'S FLU 4 U

Jonathan Meese

538 Pleasant Lane

Aspen Hill, MD 20906

Dear Mr. Kegelman and Mr. Ballston,

I read in the newspaper that your company, Kegelman-Ballston, has recently released a drug, Halitex, that provides immunity against Ulbarton's Flu by gene therapy. I believe that the genes used in developing this drug are mine. Two years ago, on May 5, I visited my GP to explain that I had been exposed to Ulbarton's Flu a lot (the entire accounting department of The Pet Supply Catalog Store, where I work, developed the flu. Also my wife, three children, and mother-in-law. Plus, I believe my dog had it, although the vet disputes this). However, despite all this exposure, I did not develop Ulbarton's.

My GP directed me to your research facility along I-270, saying he “thought he heard they were trying to develop a med.” I went there, and samples of my blood and bodily tissues were taken. The researcher said I would hear from you if the samples were ever used for anything, but I never did. Will you please check your records to verify my participation in this new medicine, and tell me what share of the profits are due me.

Thank you for your consideration.

Sincerely,

Jonathan J. Meese

From the Desk of Robert Ballston

Kegelman-Ballston Corporation

To: Martin Blake, Legal

Re: attached letter

Marty—

Is he a nut? Is this a problem?

Internal Memo

To: Robert Ballston

From: Martin Blake

Re: gene-line claimant Jonathan J. Meese

Bob—

I checked with Records in Research and yes, unfortunately this guy donated the tissue samples from which the gene line was developed that led to Halitex. Even more unfortunately, Meese’s visit occurred just before we instituted the comprehensive waiver for all donors. However, I don’t think Meese has any legal ground here. Court precedents have upheld corporate right to patent genes used in drug development. Also, the guy doesn’t sound very sophisticated (his dog?). He doesn’t even know Kegelman’s been dead for ten years. Apparently Meese has not yet employed a lawyer. I can make a small nuisance settlement if you like, but I’d rather avoid setting a corporate precedent for these people. I’d rather send him a stiff letter that will scare the bejesus out of the greedy little twerp.

Please advise.

From the Desk of Robert Ballston

Kegelman-Ballston Corporation

To: Martin Blake, Legal

Re: J. Meese

Do it.

Martin Blake, Attorney at Law

Chief Legal Counsel, Kegelman-Ballston Corporation

Dear Mr. Meese:

Your letter regarding the patented Kegelman-Ballston drug Halitex has been referred to me. Please be advised that you have no legal rights in Halitex; see attached list of case precedents. If you persist in any such claims, Kegelman- Ballston will consider it harassment and take appropriate steps, including possible prosecution.

Sincerely,

Martin Blake

Jonathan Meese

538 Pleasant Lane

Aspen Hill, MD 20906

Dear Mr. Blake,

But they're my genes!!! This can't be right. I'm consulting a lawyer, and you can expect to hear from her shortly.

Jonathan Meese

Catherine Owen, Attorney at Law

Dear Mr. Blake,

I now represent Jonathan J. Meese in his concern that Kegelman-Ballston has developed a pharmaceutical, Halitex, based on gene-therapy that uses Mr. Meese's genes as its basis. We feel it only reasonable that this drug, which will potentially earn Kegelman-Ballston millions if not billions of dollars, acknowledge financially Mr. Meese's considerable contribution. We are therefore willing to consider a settlement and are available to discuss this with you at your earliest convenience.

Sincerely,

Catherine Owen, Attorney

From the Desk of Robert Ballston

Kegelman-Ballston Corporation

To: Martin Blake, Legal

Re: J. Meese

Marty—

Damn it, if there's one thing that really chews my balls it's this sort of undercover sabotage by the second-rate. I played golf with Sam Fortescue on Saturday, and he opened my eyes (you remember Sam; he's at the agency we're using to benchmark our competition). Sam speculates that this Meese bastard is really being used by Irwin-Lacey to set us up. You know that bastard Carl Irwin has had his own Ulbarton's drug in development, and he's sore as hell because we beat him to market. Ten to one

he's paying off this Meese patsy.

We can't allow it. Don't settle. Let him sue.

Internal Memo

To: Robert Ballston

From: Martin Blake

Re: gene-line claimant Jonathan J. Meese

Bob—

I've got a better idea. We sue him, on the grounds he's walking around with our patented genetic immunity to Ulbarton's. No one except consumers of Halitex have this immunity, so Meese must have acquired it illegally, possibly on the black market. We gain several advantages with this suit: We eliminate Meese's complaint, we send a clear message to other rivals who may be attempting patent infringement, and we gain a publicity circus to both publicize Halitex (not that it needs it) and, more important, make the public aware of the dangers of black market substitutes for Halitex, such as Meese obtained.

Incidentally, I checked again with Records over at Research. They have no documentation on any visit from a Jonathan J. Meese on any date whatsoever.

From the Desk of Robert Ballston

Kegelman-Ballston Corporation

To: Martin Blake, Legal

Re: J. Meese

Marty—

Brilliant! Do it. Can we get a sympathetic judge? One who understands business? Maybe O'Connor can help.

The New York Times

HALITEX BLACK MARKET

CASE TO BEGIN TODAY

This morning the circuit court of Manhattan County is scheduled to begin hearing the case of Kegelman-Ballston v. Meese. This case, heavily publicized during recent months, is expected to set important precedents in the controversial areas of gene patents and patent infringement of biological properties. Protesters from the group FOR US: CANCEL KIDNAPPED-GENE PATENTS, which is often referred to by its initials, have been in place on the court steps since last night. The case is being heard by Judge Latham P. Farmingham III, a Republican who is widely perceived as sympathetic to the concerns of big business.

This case began when Jonathan J. Meese, an accountant with The Pet Supply Catalog Store....

Catherine Owen, Attorney at Law

Dear Mr. Blake,

Just a reminder that Jon Meese and I are still open to a settlement.

Sincerely,

Martin Blake, Attorney at Law, Chief Legal Counsel,

Kegelman-Ballston Corporation

Martin Blake, Attorney at Law

Chief Legal Counsel, Kegelman-Ballston Corporation

Cathy—

Don't they teach you at that law school you went to (I never can remember the name) that you don't settle when you're sure to win?

You're a nice girl; better luck next time.

The New York Times

**MEESE CONVICTED**

**PLAINTIFF GUILTY OF "HARBORING" DISEASE-FIGHTING**

**GENES WITHOUT COMPENSATING DEVELOPER**

**KEGELMAN-BALLSTON**

From the Desk of Robert Ballston

Kegelman-Ballston Corporation

To: Martin Blake, Legal

Re: Kegelman-Ballston v Meese

Marty—

I always said you were a genius! My God, the free publicity we got out of this thing, not to mention the future edge.... How about a victory celebration this weekend? Are you and Elaine free to fly to Aruba on the Lear, Friday night?

The New York Times

**BLUE GENES FOR DRUG THIEF**

**JONATHAN J. MEESE SENTENCED TO SIX MONTHS FOR PATENT INFRINGEMENT**

From the Desk of Robert Ballston

Kegelman-Ballston Corporation

To: Martin Blake, Legal

Re: Halitex

Marty! I just had a brilliant idea I want to run by you. We got Meese, but now that he's at Ossining the publicity has died down. Well, my daughter read this squib the other day in some science magazine, how the Ulbarton's virus has in it some of the genes that Research combined with Meese's to create Halitex. I didn't understand all the egghead science, but apparently Halitex used some of the flu genes to build its immune properties. And we own the patent on Halitex. As I see it, that means that Dr. Ulbarton was working with OUR genes when he identified Ulbarton's flu and published his work. Now, if we could go after Ulbarton in court, the publicity would be tremendous, as well as strengthening our proprietorship position....