

Attorney Docket: DacoCyto-TM-opp

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Trademark Application Serial No. 78/216,191

Filed: February 18, 2003

For the Mark: DACOGEN

Published in the Official Gazette: September 23, 2003

DAKOCYTOMATION DENMARKS A/S,	⊗	
Opposer,	⊗	
v.	⊗	Trademark Opposition No.
	⊗	91159358
SUPERGEN, INC, Applicant.	⊗	

LETTER OF TRANSMITTAL

Box TTAB- NO FEE
Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Sir:

Enclosed for filing are the following items:

- 1) a Stipulated Motion for Dismissal of Opposition Proceeding; 2) a Proof of Service; 3) a Certificate of Mailing; and 4) this Letter of Transmittal.

Please confirm receipt of these documents by applying your **date stamp** on the enclosed postcard and returning it to me.

Pursuant to 37 C.F.R. Section 2.18, **please direct all correspondence in this matter to me at the following address:**

Santangelo Law Offices, P.C.
125 S. Howes, Third Floor
Fort Collins, Colorado 80521

I have this 3rd day of March, 2005, either myself personally or through my direction of staff at this office, deposited all of the items in the above Letter of Transmittal with the United States



Postal Service as first class mail, postage prepaid, addressed to: Box TTAB - NO FEE,
Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451.

Dated this 3rd day of March, 2005.

Respectfully Submitted,

SANTANGELO LAW OFFICES, P.C.

By: *Cheryl L. Anderson*
Cheryl L. Anderson
ATTORNEY FOR OPPOSER
125 South Howes, Third Floor
Fort Collins, CO 80521
(970) 224-3100

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Opposer,	§	
v.	§	Trademark Opposition No.
	§	91159358
SUPERGEN, INC, Applicant.	§	

**STIPULATED MOTION FOR DISMISSAL OF
OPPOSITION PROCEEDING**

Box TTAB- NO FEE
Commissioner for Trademarks
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Alexandria, VA 22313-1451

Opposer, DakoCytomation Denmark A/S and Applicant, Supergen, Inc., by and through their respective counsel, pursuant to Fed. R. Civ. P. 41(a)(1)(ii), Trademark Rule of Practice 2.106(c), and TBMP § 601.01, do hereby stipulate to dismissal without prejudice of opposition action no. 91159358. As grounds therefor, the parties state as follows:

1. Opposer and Applicant have entered into a trademark agreement, resolving the issues in conflict in this matter;

2. The parties agree that their respective claims and causes of action may be dismissed without prejudice pursuant to Fed. R. Civ. P. 41(a)(1)(ii), Trademark Rule of Practice

2.106(c), and TBMP § 601.01, and shall be subject to the terms and conditions of the Trademark Co-Existence Agreement completed by the parties on February 21, 2005.

Dated this 3rd day of March, 2005.

Respectfully Submitted,

SANTANGELO LAW OFFICES, P.C.

HELLER EHRMAN WHITE & MCAULIFFE LLP

By: Cheryl L. Anderson
Cheryl L. Anderson
ATTORNEY FOR OPPOSER
125 South Howes, Third Floor
Fort Collins, CO 80521
(970) 224-3100

By: Harold J. Milstein
Harold J. Milstein
ATTORNEY FOR APPLICANT
275 Middlefield Road
Menlo Park, CA 94025-3506
(650) 324-7000

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PROOF OF SERVICE

The person whose signature appears below confirms that the attached, fully executed Stipulated Motion For Dismissal Of Opposition Proceeding has been served upon U.S. counsel for Applicant by transmitting a copy of the document by first class mail to: Harold J. Milstein, Esq., Heller Ehrman White & McAuliffe LLP, 275 Middlefield Road, Menlo, California 94025, which mailing was made this same day.

Dated this 3rd day of March, 2005.

Respectfully,
SANTANGELO LAW OFFICES, P.C.

By: Cheryl L. Anderson
Cheryl L. Anderson
ATTORNEY FOR OPPOSER
125 South Howes, Third Floor
Fort Collins, Colorado 80521
(970) 224-3100

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SUPERGEN, INC, Applicant.

§
§
§
§
§

Trademark Opposition No.
91159358

CERTIFICATE OF MAILING

I, Cheryl A. Swanson, hereby certify to the truth of the following items:

1. I am an employee of Santangelo Law Offices, P.C., 125 South Howes, Third Floor, Fort Collins, Colorado 80521.
2. I have this day deposited the following items: 1) a Stipulated Motion For Dismissal of Opposition Proceeding; 2) a Proof of Service document; 3) a Letter of Transmittal; and 4) this Certificate of Mailing, with the United States Postal Service as first class mail, postage prepaid, addressed to: Box TTAB - NO FEE, Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451, on this 3rd day of March, 2005.


Cheryl A. Swanson