

UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

am/apb

Mailed: October 11, 2006

Opposition No. 91169856

SmithKline Beecham PLC,  
Signal Investment &  
Management Co., and The  
Mentholatum Company (joined  
as party plaintiffs)

v.

Bio Therapeutics, Inc.

**Andrew P. Baxley, Interlocutory Attorney:**

On September 20, 2006, opposer filed a motion to substitute The Mentholatum Company as party for opposer.

In such motion, SmithKline Beecham PLC ("SmithKline") contends that its pleaded marks were assigned from SmithKline to Signal Investment & Management Co. ("Signal") on June 6, 2006 and from SmithKline to The Mentholatum Company ("Mentholatum") on August 14, 2006. SmithKline included as exhibits to its motion copies of documents reflecting the assignments at issue. Accordingly, SmithKline asks that Mentholatum be substituted as party plaintiff herein.

The Board notes that the assignments at issue took place after the commencement of this proceeding and prior to the close of the discovery period and that there is no indication in the record that either SmithKline or Signal are no longer

in existence. Accordingly, the Board finds that joinder of Signal and Mentholatum, rather than substitution of Mentholatum, is appropriate. See TBMP Section 512.01 (2d ed. rev. 2004).

In view thereof, the motion to substitute Mentholatum is denied. Signal and Mentholatum are hereby joined as party plaintiffs herein.

Discovery and testimony periods remain as last reset in the Board's July 26, 2006 order.