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

Proceeding	92061895
Party	Plaintiff Proove Biosciences, Inc.
Correspondence Address	PATRICK R DELANEY DITTHAVONG & STEINER PC 44 CANAL CENTER PLZ STE 322 ALEXANDRIA, VA 22314 UNITED STATES docket@dcpatent.com, pdelaney@dcpatent.com
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Signature	/Patrick R. Delaney/
Date	11/06/2015
Attachments	AMENDED PETITION.pdf(174152 bytes) Exhibit A.pdf(4400425 bytes) Exhibit B.pdf(1094820 bytes) Exhibit C.pdf(989150 bytes) Exhibit D.pdf(222746 bytes)

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

L1040US00

PROOVE BIOSCIENCES, INC.,)	
)	
Petitioner,)	Cancellation No. 92061895
)	Registration No. 3,250,168
v.)	Mark: PROVE
)	
PROIMMUNE LIMITED,)	
)	
Registrant.)	
)	

AMENDED PETITION FOR CANCELLATION

In response to the Board’s Order of October 7, 2015, the Petitioner, PROOVE BIOSCIENCES, INC., brings this amended petition for trademark registration cancellation against Registrant, PROIMMUNE LIMITED, and alleges on knowledge, information and belief, as follows:

PARTIES & STANDING

1. Petitioner, Proove Biosciences Inc., (hereinafter the “Petitioner”), is a corporation having an address at 10820 Guilford Road, Suite 201, Annapolis Junction, Maryland 20701, USA.

2. Registrant, ProImmune Limited (hereinafter the “Registrant”), a corporation having an address at Magdalen Centre, Oxford Science Park, Oxford, OX4 4GA, UK, is the owner of U.S. Registration No. 3,250,168 for the word mark PROVE (hereinafter the “Registration”).

3. Petitioner is currently and will continue to be damaged by the Registration and

hereby petitions to cancel same.

4. Petitioner is the applicant in U.S. trademark application serial no. 86/085,516 for the word mark PROOVE. The Registration is the sole basis for the current refusal of Petitioner's application in U.S. trademark application serial no. 86/085,516. The Board's refusal has been appealed to the United States Court of Appeals for the Federal Circuit. Attached as Exhibit A is copy of the September 24, 2015 Notice of Docketing in the appeal of the application.

GROUND FOR CANCELLATION

The grounds for cancellation of the Registration are as follows:

FIRST GROUND FOR CANCELLATION – GENERICNESS

5. Registration No. 3,250,168 includes services in International Class 042 for "Scientific and technical research and design services in the field of biomedical sciences". Although Petitioner maintains that Registrant has abandoned and has not used the mark PROVE for the services in International Class 042, any alleged uses of the mark PROVE for scientific and technical research and design services in the field of biomedical sciences are generic and, therefore, not registrable as a trademark.

6. The word "prove" is a common term that the relevant purchasing public understands primarily as describing the genus of services in International Class 042 for "scientific and technical research and design services in the field of biomedical sciences". The word "prove" is defined as "to show the existence, truth, or correctness of (something) by using evidence, logic, etc." Attached as Exhibit B is a print-out from the Merriam-Webster online

dictionary downloaded July 15, 2015 from the URL: <http://www.merriam-webster.com/dictionary/prove>. The word “prove” is commonly known as the primary activity in the scientific method, including deductive and inductive reasoning utilized in scientific and technical research and design services in the field of biomedical sciences. The word “prove” is also commonly known as the primary activity in diagnostic methods, including those utilizing diagnostic preparations or biochemical substances for scientific research purposes.

7. Individuals who practice the scientific method or utilize diagnostic preparations commonly engage the scientific method to “prove” their results.

8. The term “prove” has been widely used for centuries by scientists and medical professionals to refer to the common practice of developing test results in order to “prove” a hypothesis.

9. Millions of companies, institutions and individuals throughout the United States commonly engage in scientific research to “prove” their hypotheses as a basic function in their endeavors.

10. Registrant’s alleged use of the term “prove” with respect to the genus of services in International Class 042 for “scientific and technical research and design services in the field of biomedical sciences” is not unique or distinctive, but rather consistent with other third party uses and common understanding of the term dating back decades.

SECOND GROUNDS FOR CANCELLATION – ABANDONMENT

11. Attached as Exhibit C is copy of the single specimen filed with the June 07, 2013 Combined Declaration allegedly demonstrating use in commerce by Registrant with respect to

goods and services in both International Classes 001 and 042 in the Registration. The specimen merely reflects the use of the PROVE mark by registrant with MHC Class I pentamers or libraries based on these pentamers. The pentamers and pentamer libraries are protein products classifiable in International Class 001, but not classified as a service in International Class 042.

12. A history of the Registrant's website is available on the Internet Archive at URL: http://web.archive.org/web/20060501000000*/https://www.proimmune.com also known as the "WayBackEngine". The archive at the URL shows 73 updates to Registrant's website as a substantial ongoing history of the website between March 24, 2003 and February 3, 2015.

13. The first appearance of use of the PROVE mark for the MHC Class I Pentamer proteins or libraries as products classifiable in International Class 001 first appeared on the Registrant's website update dated September 16, 2005. Attached as Exhibit D is a print-out of the URL: <http://web.archive.org/web/20050916150746/http://www.proimmune.com/> from the Internet Archive for the Registrant's update to their website on September 16, 2005.

14. A review of the entire archive of the Registrant's website between March 24, 2003 and February 3, 2015 shows consistent use of the PROVE mark for the MHC Class I Pentamer proteins or libraries as products classifiable in International Class 001, but not classifiable as a service in International Class 042.

15. Although Registration No. 3,250,168 became registered on June 12, 2007, the word mark PROVE has, based on all available evidence, never been utilized for anything other than for MHC Class I Pentamer proteins or libraries as products classifiable in International Class 001.

16. Based on the foregoing, Registrant has not utilized the word mark PROVE for

anything other than for MHC Class I Pentamer proteins or libraries as products classifiable in International Class 001 and has thus abandoned the word mark PROVE for services in International Class 042 for “Scientific and technical research and design services in the field of biomedical sciences” based on a period of greater than three years of consecutive non-use.

THIRD GROUNDS FOR CANCELLATION – FRAUD

17. The Combined Declaration of Use and Incontestability under Sections 8 and 15 filed on June 07, 2013, included a sworn declaration signed under penalty of perjury by Mr. John C. Eisenhart, the Registrant’s Attorney.

18. Mr. Eisenhart swore that Registrant was, as of June 7, 2013, using the PROVE trademark “...in commerce on or in connection with all goods and/or services identified...” including those in International Class 042, and that the PROVE trademark “...has been in continuous use in commerce for five (5) consecutive years after the date of registration [June 12, 2007] ...” including with respect to those in International Class 042. Based upon the facts provided above in points 11-16, such statements were false at the time that they were made.

19. In support of its June 07, 2013 Combined Declaration of Use and Incontestability, Registrant attached a specimen of use (Exhibit C) consisting of a webpage for Registrant’s “PROVE MHC Class I Pentamer Libraries”, a diagnostic preparation product associated with International Class 001 or International Class and not associated with technical research and design services in the field of biomedical sciences in International Class 042.

20. Based upon the facts provided above in points 11-16, as of June 07, 2013, Registrant was not using PROVE trademark in commerce in association with scientific and

technical research and design services in the field of biomedical sciences.

21. Based upon the facts provided above in points 11-16, as of June 07, 2013, Registrant had not used the PROVE trademark in commerce in association with scientific and technical research and design services in the field of biomedical sciences for five consecutive years following the date of registration, June 12, 2007.

22. Based upon the facts provided above in points 11-16, as of June 07, 2013, the webpage (Exhibit C) which Registrant submitted with its Combined Declaration of Use and Incontestability was not currently being used by Registrant to advertise scientific and technical research and design services in the field of biomedical sciences.

23. Based upon the facts provided above in points 11-16, Registrant and Mr. Eisenhart knew that Mr. Eisenhart's statements regarding use of the PROVE trademark in commerce in association with scientific and technical research and design services in the field of biomedical sciences were false at the time such statements were made.

24. Based upon the facts provided above in points 11-16, Registrant knew that the specimen of use that Mr. Eisenhart submitted (Exhibit C) was not a current specimen showing Registrant's current use of the PROVE trademark in commerce in association with scientific and technical research and design services in the field of biomedical sciences at that time.

25. Based upon the facts provided above in points 11-16, Registrant and Mr. Eisenhart filed the Combined Declaration of Use and Incontestability with the false statements and the false specimen (Exhibit C) with the intent to deceive the USPTO and the intent that the USPTO would rely upon the false statements and false specimen in allowing the continued registration of the PROVE mark. 24.

26. The U.S. Patent and Trademark Office (USPTO) relied upon Mr. Eisenhart's material false statements and false specimen in allowing the continued registration of the PROVE mark.

27. The USPTO would not have allowed Registration No. 3,250,168 to remain valid absent Registrant's knowingly false statements and false specimen.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that Registration No. 3,250,168 be cancelled pursuant to 15 U.S.C. §§ 1064(3) because: (1) the word "prove" has become the generic name for the services in International Class 042 for "Scientific and technical research and design services in the field of biomedical sciences" named in the Registration, (2) the PROVE trademark has been abandoned by the Registrant with respect to scientific and technical research and design services in the field of biomedical sciences in International Class 042, and (3) the Registration has been maintained via fraudulent representations to the USPTO.

DATED: November 6, 2015

Respectfully submitted,

DITTHAVONG & STEINER, P.C.

/s/ Patrick R. Delaney

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Attorney for Petitioner
PROOVE BIOSCIENCES, INC.

CERTIFICATE OF SERVICE

I certify that on November 6, 2015, the foregoing AMENDED PETITION FOR CANCELLATION was filed electronically and serviced by email to the general email address for Nixon & Vanderhye, P.C. at nixonptomail@nixonvan.com and to Ms. Sheryl De Luca at sld@nixonvan.com the Attorney of Record for the owner of the Registration:

Sheryl De Luca
NIXON & VANDERHYE, P.C.
901 N. Glebe Road, 11th Floor
Arlington, VA 22203

/s/ Patrick R. Delaney
Patrick R. Delaney

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

NOTICE OF DOCKETING

15-2057 - In re: Proove Biosciences, Inc. v. Lee

Date of docketing: September 24, 2015

Appeal from: Patent and Trademark Office - Patent Trial and Appeal Board in Serial no. 86/085,516

Appellant: Proove Biosciences, Inc.

Critical dates include:

- Date of docketing. See Fed. Cir. R. 12 and 15.
- Entry of appearance. (*Due within 14 days of the date of docketing.*) See Fed. Cir. R. 47.3.
- Certificate of interest. (*Due within 14 days of the date of docketing.*) See Fed. Cir. R. 47.4.
- Docketing Statement. (*Due within 14 days of the date of docketing, or within 30 days if the United States or its officer or agency is a party in the appeal.*) [Only in cases where all parties are represented by counsel. See the en banc order dated September 18, 2006, and guidelines available at www.caafc.uscourts.gov.]
- Requests for extensions of time. See Fed. Cir. R. 26 and 27. **N.B. Delayed requests are not favored by the court.**
- Briefs. See Fed. Cir. R. 31. **N.B. You will not receive a separate briefing schedule from the Clerk's Office.** However, in a case involving an appellant, a cross-appellant, and an appellee, a special briefing schedule is used. The appellant's opening brief is due within 60 days of the date of docketing. The cross-appellant's opening brief is due within 40 days of filing of the appellant's opening brief. The appellee's brief is due within 40 days of filing of the cross-appellant's brief. The appellant's response/reply brief is due within 40 days of filing of the appellee's brief. The cross-appellant's reply brief is due within 14 days of filing of the appellant's response/reply brief. The joint appendix is due within 10 days of filing of the cross-appellant's reply brief.
- Settlement discussions. See Fed. Cir. R. 33.
- **ORAL ARGUMENT SCHEDULE CONFLICTS:** Counsel should advise the clerk in writing within 30 days once briefing is completed of potential scheduling conflicts or as soon as they are known and should not wait until an actual conflict arises. Once scheduled, a case will not be postponed except on motion showing **compelling reasons**. See Practice Note following Fed. Cir. R. 34.

The official caption is reflected on the electronic docket under the listing of the parties and counsel. Counsel may download the Rules of Practice and required forms from www.caafc.uscourts.gov.

Daniel E. O'Toole
Clerk of Court

cc: Office of the Solicitor, US Patent and Trademark Office
Patrick Richard Delaney
Thomas W. Krause

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT**

PROOVE BIOSCIENCES, INC. :

Appellant, :

v. :

MICHELLE K. LEE :

Director, United States Patent :

and Trademark Office (USPTO) :

Appellee. :

App. Serial No. 86085516 (PROOVE)

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 US COURT OF APPEALS
 FEDERAL CIRCUIT

NOTICE OF APPEAL

Appellant, Proove Biosciences, Inc., hereby appeals to the United States Court of Appeals for the Federal Circuit from the decision of the USPTO Trademark Trial and Appeal Board dated June 15, 2015, attached as Exhibit A, affirming the refusal of registration on the Principal Register of U.S. Trademark Application No. 86085516 for the mark PROOVE for goods and services identified in International Classes 1, 5 and 42.

Respectfully submitted,

DATED: August 13, 2015

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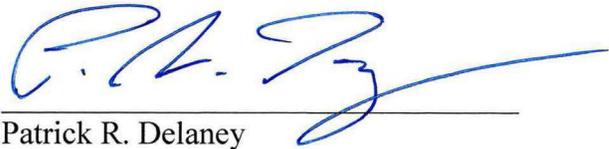
Attorneys for Appellant
PROOVE BIOSCIENCES, INC.

CERTIFICATE OF SERVICE

I hereby certify that on August 13, 2015, I caused copies of the foregoing Notice of Appeal (with a copy of the decision being appealed) to be served on the following in the manner indicated:

Office of the General Counsel (by certified mail)
United States Patent and Trademark Office
P.O. Box 1450, Alexandria, VA 22313-1450

Trademark Trial and Appeal Board (by electronic filing through ESTTA)
United States Patent and Trademark Office
ESTTA Reference No.: App. Serial No. 86085516



Patrick R. Delaney

Exhibit A

This Opinion is not a
Precedent of the TTAB

Mailed: June 15, 2015

UNITED STATES PATENT AND TRADEMARK OFFICE

—
Trademark Trial and Appeal Board

—
In re Proove Biosciences, Inc.

—
Serial No. 86085516

—
Patrick R. Delaney of Ditthavong & Steiner PC,
for Proove Biosciences, Inc.

Emily Chuo, Trademark Examining Attorney, Law Office 101,
Ronald R. Sussman, Managing Attorney.

—
Before Quinn, Bucher and Kuzma,
Administrative Trademark Judges.

Opinion by Bucher, Administrative Trademark Judge:

Proove Biosciences, Inc. (“Applicant”), a corporation based in Irvine, CA, seeks registration on the Principal Register of the mark **PROOVE** (*in standard character format*) for

“genetic tests comprised of DNA detection reagents to medical doctors, genetic scientists and healthcare professionals; assays or reagents in the nature of DNA detection chemicals and biologicals for use in genetic research to medical doctors, genetic scientists and healthcare professionals” in International Class 1;

Serial No. 86085516

“preparations in the nature of DNA detection chemicals and biologicals for detecting genetic predispositions for health treatment purposes to medical doctors, genetic scientists and healthcare professionals” in International Class 5; and

“consulting services in the fields of laboratory genetic testing or pharmacogenetics to medical doctors, genetic scientists and healthcare professionals; genetic testing for scientific and medical research purposes to medical doctors, genetic scientists and healthcare professionals; providing information in the field of pharmacogenetics or genetic research resources to medical doctors, genetic scientists and healthcare professionals; providing genetic testing services or information in the field of pharmacogenetics or genetic research for scientific research purposes to medical doctors, genetic scientists and healthcare professionals; research in the field of genetics or pharmacogenetics; services in the nature of providing genetic testing results for scientific research purposes to medical doctors, genetic scientists and healthcare professionals” in International Class 42.¹

The Trademark Examining Attorney has taken the position that Applicant’s mark, when used on or in connection with the goods and services of Applicant so resembles the registered mark **PROVE** (*in standard character format*) for goods and services in the same three classes, as follows:

“human and animal diagnostic preparations for scientific research purposes and biochemical substances for scientific research purposes” in International Class 1;

“pharmaceutical and veterinary preparations for the treatment of cancer, infectious diseases, autoimmune diseases and transplant complication prevention” in International Class 5; and

¹ Application Serial No. 86085516 was filed on October 8, 2013, based upon Applicant’s allegation of a *bona fide* intention to use the mark in commerce under Section 1(b) of the Trademark Act.

Serial No. 86085516

“scientific and technical research and design services in the field of biomedical sciences” in International Class 42;²

as to be likely to cause confusion, to cause mistake or to deceive under Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d).

After the Trademark Examining Attorney made the refusal final, Applicant appealed to this Board. We affirm the refusal to register.

Our determination under Trademark Act § 2(d) is based upon an analysis of the probative facts in evidence that are relevant to the factors bearing on a likelihood of confusion. *See In re E.I. du Pont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (CCPA 1973); *see also Palm Bay Imp., Inc. v. Veuve Clicquot Ponsardin Maison Fondee En 1772*, 396 F.3d 1369, 73 USPQ2d 1689 (Fed. Cir. 2005); *In re Majestic Distilling Co., Inc.*, 315 F.3d 1311, 65 USPQ2d 1201 (Fed. Cir. 2003); and *In re Dixie Rests. Inc.*, 105 F.3d 1405, 41 USPQ2d 1531 (Fed. Cir. 1997). In considering the evidence of record on these factors, we keep in mind that “[t]he fundamental inquiry mandated by Section 2(d) goes to the cumulative effect of differences in the essential characteristics of the goods and differences in the marks.” *Federated Foods, Inc. v. Fort Howard Paper Co.*, 544 F.2d 1098, 192 USPQ 24, 29 (CCPA 1976); *see also In re Azteca Rest. Enters., Inc.*, 50 USPQ2d 1209 (TTAB 1999).

A. Comparison of the Marks

We begin by comparing the marks. We consider and compare the appearance, sound, connotation and commercial impression of the marks in their entireties.

² Registration No. 3250168 issued to ProImmune Limited, a U.K. corporation, on June 12, 2007; Section 8 affidavit accepted and Section 15 affidavit acknowledged.

Serial No. 86085516

Palm Bay Imports, 73 USPQ2d at 1691. “The proper test is not a side-by-side comparison of the marks, but instead ‘whether the marks are sufficiently similar in terms of their commercial impression’ such that persons who encounter the marks would be likely to assume a connection between the parties.” *Coach Servs., Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 101 USPQ2d 1713, 1721 (Fed. Cir. 2012) (citation omitted). See *San Fernando Electric Mfg. Co. v. JFD Electronics Components Corp.*, 565 F.2d 683, 196 USPQ 1, 3 (CCPA 1977); *Spoons Restaurants Inc. v. Morrison Inc.*, 23 USPQ2d 1735, 1741 (TTAB 1991), *aff’d mem.*, 972 F.2d 1353 (Fed. Cir. June 5, 1992).

While the registered mark is **PROVE**, Applicant’s mark is **PROOVE**. Applicant argues that its second instance of the letter “O” renders its mark considerably different from Registrant’s mark as to appearance and overall commercial impression. By contrast, the Trademark Examining Attorney contends that the “marks are virtually identical,” and emphasizes the fact that we must assume these involved marks will be phonetically equivalent.

With these words differing by the adding of another letter “O,” we suspect that many consumers, particularly those challenged by bad orthography, will little notice nor long remember this difference. Accordingly, we find these marks to be quite similar as to appearance and identical as to sound. Acknowledging that for some customers, a minor difference in connotations may spring from perception of the known English language word, “Prove,” of the cited mark, on the one hand, and the misspelled “Proove” of Applicant’s mark, on the other hand, we nonetheless find the similarities herein outweigh

Serial No. 86085516

the dissimilarities, and these two marks will create quite similar overall commercial impressions. Hence, this key *du Pont* factor favors a finding of likelihood of confusion.

B. Relationship of the Goods and Services

We next turn our attention to an evaluation of the relationship of the goods and services in the cited registration to the goods and services named in the application. *Octocom Systems, Inc. v. Houston Computers Services Inc.*, 918 F.2d 937, 16 USPQ2d 1783, 1787 (Fed. Cir. 1990). *See also Hewlett-Packard Co. v. Packard Press Inc.*, 281 F.3d 1261, 62 USPQ2d 1001 (Fed. Cir. 2002). It is settled that it is not necessary that the respective goods and services be identical or even competitive in order to find that they are related for purposes of our likelihood of confusion analysis. That is, the issue is not whether customers would confuse the goods and services themselves, but rather whether they would be confused as to the source of the goods. *See In re Rexel Inc.*, 223 USPQ 830 (TTAB 1984). The goods and services need only be sufficiently related that customers would be likely to assume, upon encountering the goods and services under similar marks, that the goods and services originate from, are sponsored or authorized by, or are otherwise connected to the same source. *See In re Martin's Famous Pastry Shoppe, Inc.*, 748 F.2d 1565, 223 USPQ 1289 (Fed. Cir. 1984); *In re Melville Corp.*, 18 USPQ2d 1386 (TTAB 1991).

By their very terms, Registrant's biochemical goods in Class 1 are directed to scientific research purposes and its involved goods in Class 5 are for the treatment of

Serial No. 86085516

cancer, infectious diseases, autoimmune diseases and transplant complication prevention. Its research and design services are broadly available “in the field of biomedical sciences.” Moreover, Applicant has submitted for the record a copy of Registrant’s website.³ While it is impermissible for an applicant to restrict the scope of the cited registrant’s goods and services with extrinsic evidence, we have reviewed the information gleaned from this website to understand more about Registrant’s goods and services. Accordingly, we conclude that Registrant provides its products and services to medical researchers across the globe that work in the world’s leading pharmaceutical and biotechnology companies, as well as several thousand academic and healthcare institutions.

Repeatedly in its identification of goods and recitation of services, Appellant describes its offering of goods and services as intended for advanced scientific applications involving genetics for medical purposes, with these goods and services being provided to medical doctors, genetic scientists and healthcare professionals.

We agree with Applicant that it appears that these respective goods are not directly competitive. We accept for the sake of argument that Applicant’s reagents are different in purpose and nature from Registrant’s preparations. However, whether in connection with researcher’s development of new medicines or the physician’s initiation of drug therapies in treating a patient, the current trend is toward individualizing drug therapies. That is the purpose, by definition, of Applicant’s goods and services in the field of pharmacogenetics. Similarly,

³ <http://www.proimmune.com/ecommerce/page.php?page=clients>

Serial No. 86085516

Registrant's webpage discusses its products used to detect epitope-specific immune cells so that they can be analyzed in human blood samples. As to the specific efficacy of a drug, the individual patient's response is related to variability in the protein to which the drug binds. Side-effects from medications also vary due to different proteins involved in the immune response. Hence, at a basic level, all of the goods and services of Registrant and of Applicant are directed toward individualizing drug therapies.

Moreover, the Trademark Examining Attorney has provided for the record evidence showing the same companies involved in research, in diagnostics and in treatment in the fields of genetics and of immunology.⁴ Accordingly, we find that the respective goods and services must be considered related, and this *du Pont* factor favors a finding of likelihood of confusion.

C. Trade Channels

Applicant identifies its target customers as including medical doctors, genetic scientists and healthcare professionals. Registrant identifies its uses as scientific research as well as "treatment of cancer, infectious diseases, autoimmune diseases" Thus, medical, healthcare and scientific research personnel would seem to use both Applicant's and Registrant's goods and services. Moreover, we are not persuaded by Applicant's arguments that "... Registrant's goods are offered and sold by Registrant through its specialized sales representatives and distributors to

⁴ These include the Texas Biomedical Research Institute; Humigen, The Institute for Genetic Immunology; the SardiNIA Study of Aging; Altogen Biosystems; Covance, Inc.; Hycult Biotech; Immco Diagnostics; LGC Group, Ltd.; Life Technologies; and Transgenomic, Inc.

Serial No. 86085516

commercial purchasing agents ...” The description of Registrant’s goods and services contains no such limitations. Hence, we find that these respective goods and services are targeted to the same group of scientific and medical professionals, employed in many of the same types of institutions, and this *du Pont* factor favors a finding of likelihood of confusion.

D. Conditions of Sale / Sophistication of Purchasers

As described above, it seems quite likely that the scientists and physicians who would be relying upon these respective goods and services are fairly sophisticated professionals. While we cannot be sure of the sophistication of the actual purchasing agents at these scientific and healthcare institutions, we do find that this *du Pont* factor favors slightly a finding of no likelihood of confusion.

E. Conclusions on Likelihood of Confusion

With quite similar marks and related goods and services moving through some of the same trade channels to researchers and healthcare professionals, we find overall a likelihood of confusion herein despite the probability that many of the involved purchasers may be fairly sophisticated.

Decision: The refusal to register Applicant’s mark **PROOVE** under Section 2(d) of the Lanham Act is hereby affirmed.

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT
717 MADISON PLACE, N.W.
WASHINGTON, D.C. 20439

DANIEL E. O'TOOLE
CLERK OF COURT

TELEPHONE: 202-275-8000

August 14, 2015

TO: Patrick R. Delaney

RE: Payment of filing fee for PROOVE BIOSCIENCES, INC., appeal in
no. 86085516

The court received the enclosed \$500 check with the notice of appeal identified above. All fees must be paid electronically. Please see the enclosed notice for instructions on how to pay the filing fee using Pay.gov. Your check is returned herewith.

Very truly yours,

/s/ Anne M. Tomlinson
Anne M. Tomlinson
Deputy Clerk



From: [REDACTED]
To: [appeal](#)
Subject: 86085516 Proove Biosciences proof of payment through pay.gov
Date: Tuesday, August 18, 2015 1:07:09 PM

This is proof of payment through pay.gov. NOA was received by mail on 8/13/15.

[REDACTED]

[REDACTED]

From: FilingNotice@cafc.uscourts.gov [mailto:FilingNotice@cafc.uscourts.gov]
Sent: Monday, August 17, 2015 4:46 PM
To: [REDACTED]
Subject: Agency Petition (fee) Transaction Submitted

Transaction submitted by Patrick Richard Delaney on 08/17/2015 at 04:45 PM

Description: [Agency Petition \(fee\)](#)

Payment Method: CreditCard

Fee Receipt Number: [REDACTED]

Fee Amount: \$500.00

**UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT**

In re Proove Biosciences, Inc.)
Serial No. 86/085,516)
Filed : October 8, 2013) **Appeal No. 2015-**
Mark: PROOVE)

NOTICE FORWARDING CERTIFIED LIST

A notice of appeal to the United States Court of Appeals for the Federal Circuit was timely filed on August 13, 2015, in the United States Patent and Trademark Office in connection with the above-identified trademark application. Pursuant to 15 U.S.C. § 1071(a)(3) and Federal Circuit Rule 17(b)(1), the United States Patent and Trademark Office (USPTO) is today forwarding, to counsel for Appellant, a certified list of documents comprising the record in the USPTO.

Associate Solicitors Mary Beth Walker and Benjamin T. Hickman are representing the Director in this appeal. Counsel for Appellant may contact Ms. Walker or Mr. Hickman at (571) 272-9035 to arrange for designating the appendix. *See generally* Fed. Cir. Rule 30(b).

If a copy of the notice of appeal and the docketing fee of \$500.00 have not been filed with the Federal Circuit, counsel is reminded that a copy

of the notice and the docketing fee should be promptly filed with the Federal Circuit.

The mailing address of the Federal Circuit is:

U.S. Court of Appeals for the Federal Circuit
717 Madison Place, N.W.
Washington, DC 20439

Respectfully submitted,

Michelle K. Lee
Under Secretary of Commerce for
Intellectual Property and Director of the
United States Patent and Trademark Office

Date: September 22, 2015

By: *Macia L. Fletcher*
Macia L. Fletcher
Paralegal Specialist
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571-272-9035

Trademark Trial and Appeal Board Electronic Filing System. <http://esta.uspto.gov>ESTTA Tracking number: **ESTTA689406**Filing date: **08/13/2015**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	86085516
Applicant	Proove Biosciences, Inc.
Applied for Mark	PROOVE
Correspondence Address	PATRICK R DELANEY DITTHAVONG & STEINER PC 44 CANAL CENTER PLAZA, SUITE 322 ALEXANDRIA, VA 22314 UNITED STATES doCKET@dcpatent.com, pdelaney@dcpatent.com, patrickrdelaney@gmail.com
Submission	Appeal to CAFC
Attachments	2015-08-13 NOA filed at Federal Circuit (L1041US00).pdf(554136 bytes)
Filer's Name	Patrick R. Delaney
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Signature	/Patrick R. Delaney/
Date	08/13/2015

IN THE UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT

PROOVE BIOSCIENCES, INC.	:	
	:	
Appellant,	:	
	:	
v.	:	
	:	App. Serial No. 86085516 (PROOVE)
MICHELLE K. LEE	:	
Director, United States Patent	:	
and Trademark Office (USPTO)	:	
	:	
Appellee.	:	
	:	
	:	
	:	

NOTICE OF APPEAL

Appellant, Proove Biosciences, Inc., hereby appeals to the United States Court of Appeals for the Federal Circuit from the decision of the USPTO Trademark Trial and Appeal Board dated June 15, 2015, attached as Exhibit A, affirming the refusal of registration on the Principal Register of U.S. Trademark Application No. 86085516 for the mark PROOVE for goods and services identified in International Classes 1, 3 and 42.

Respectfully submitted,

DATED: August 13, 2015



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PROOVE BIOSCIENCES, INC.

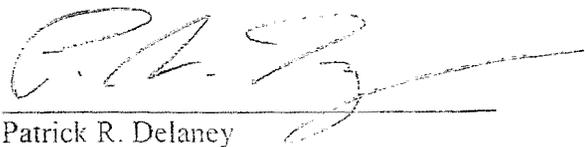
2015 AUG 13 PM 2:45
FEDERAL CIRCUIT

CERTIFICATE OF SERVICE

I hereby certify that on August 13, 2015, I caused copies of the foregoing Notice of Appeal (with a copy of the decision being appealed) to be served on the following in the manner indicated:

Office of the General Counsel (by certified mail)
United States Patent and Trademark Office
P.O. Box 1450, Alexandria, VA 22313-1450

Trademark Trial and Appeal Board (by electronic filing through ESTTA)
United States Patent and Trademark Office
ESTTA Reference No.: App. Serial No. 86085516



Patrick R. Delaney

Exhibit A

This Opinion is not a
Precedent of the TTAB

Mailed: June 15, 2015

UNITED STATES PATENT AND TRADEMARK OFFICE

—
Trademark Trial and Appeal Board
—

In re Proove Biosciences, Inc.
—

Serial No. 86085516
—

Patrick R. Delaney of Ditthavong & Steiner PC,
for Proove Biosciences, Inc.

Emily Chuo, Trademark Examining Attorney, Law Office 101,
Ronald R. Sussman, Managing Attorney.

—
Before Quinn, Bucher and Kuzma,
Administrative Trademark Judges.

Opinion by Bucher, Administrative Trademark Judge:

Proove Biosciences, Inc. (“Applicant”), a corporation based in Irvine, CA, seeks registration on the Principal Register of the mark **PROOVE** (*in standard character format*) for

“genetic tests comprised of DNA detection reagents to medical doctors, genetic scientists and healthcare professionals; assays or reagents in the nature of DNA detection chemicals and biologicals for use in genetic research to medical doctors, genetic scientists and healthcare professionals” in International Class 1;

“preparations in the nature of DNA detection chemicals and biologicals for detecting genetic predispositions for health treatment purposes to medical doctors, genetic scientists and healthcare professionals” in International Class 5; and

“consulting services in the fields of laboratory genetic testing or pharmacogenetics to medical doctors, genetic scientists and healthcare professionals; genetic testing for scientific and medical research purposes to medical doctors, genetic scientists and healthcare professionals; providing information in the field of pharmacogenetics or genetic research resources to medical doctors, genetic scientists and healthcare professionals; providing genetic testing services or information in the field of pharmacogenetics or genetic research for scientific research purposes to medical doctors, genetic scientists and healthcare professionals; research in the field of genetics or pharmacogenetics; services in the nature of providing genetic testing results for scientific research purposes to medical doctors, genetic scientists and healthcare professionals” in International Class 42.¹

The Trademark Examining Attorney has taken the position that Applicant’s mark, when used on or in connection with the goods and services of Applicant so resembles the registered mark **PROVE** (*in standard character format*) for goods and services in the same three classes, as follows:

“human and animal diagnostic preparations for scientific research purposes and biochemical substances for scientific research purposes” in International Class 1;

“pharmaceutical and veterinary preparations for the treatment of cancer, infectious diseases, autoimmune diseases and transplant complication prevention” in International Class 5; and

¹ Application Serial No. 86085516 was filed on October 8, 2013, based upon Applicant’s allegation of a *bona fide* intention to use the mark in commerce under Section 1(b) of the Trademark Act.

“scientific and technical research and design services in the field of biomedical sciences” in International Class 42;²

as to be likely to cause confusion, to cause mistake or to deceive under Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d).

After the Trademark Examining Attorney made the refusal final, Applicant appealed to this Board. We affirm the refusal to register.

Our determination under Trademark Act § 2(d) is based upon an analysis of the probative facts in evidence that are relevant to the factors bearing on a likelihood of confusion. See *In re E.I. du Pont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (CCPA 1973); see also *Palm Bay Imp., Inc. v. Veuve Clicquot Ponsardin Maison Fondee En 1772*, 396 F.3d 1369, 73 USPQ2d 1689 (Fed. Cir. 2005); *In re Majestic Distilling Co., Inc.*, 315 F.3d 1311, 65 USPQ2d 1201 (Fed. Cir. 2003); and *In re Dixie Rests. Inc.*, 105 F.3d 1405, 41 USPQ2d 1531 (Fed. Cir. 1997). In considering the evidence of record on these factors, we keep in mind that “[t]he fundamental inquiry mandated by Section 2(d) goes to the cumulative effect of differences in the essential characteristics of the goods and differences in the marks.” *Federated Foods, Inc. v. Fort Howard Paper Co.*, 544 F.2d 1098, 192 USPQ 24, 29 (CCPA 1976); see also *In re Azteca Rest. Enters., Inc.*, 50 USPQ2d 1209 (TTAB 1999).

A. Comparison of the Marks

We begin by comparing the marks. We consider and compare the appearance, sound, connotation and commercial impression of the marks in their entireties.

² Registration No. 3250168 issued to ProImmune Limited, a U.K. corporation, on June 12, 2007; Section 8 affidavit accepted and Section 15 affidavit acknowledged.

Palm Bay Imports, 73 USPQ2d at 1691. “The proper test is not a side-by-side comparison of the marks, but instead ‘whether the marks are sufficiently similar in terms of their commercial impression’ such that persons who encounter the marks would be likely to assume a connection between the parties.” *Coach Servs., Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 101 USPQ2d 1713, 1721 (Fed. Cir. 2012) (citation omitted). See *San Fernando Electric Mfg. Co. v. JFD Electronics Components Corp.*, 565 F.2d 683, 196 USPQ 1, 3 (CCPA 1977); *Spoons Restaurants Inc. v. Morrison Inc.*, 23 USPQ2d 1735, 1741 (TTAB 1991), *aff’d mem.*, 972 F.2d 1353 (Fed. Cir. June 5, 1992).

While the registered mark is **PROVE**, Applicant’s mark is **PROOVE**. Applicant argues that its second instance of the letter “O” renders its mark considerably different from Registrant’s mark as to appearance and overall commercial impression. By contrast, the Trademark Examining Attorney contends that the “marks are virtually identical,” and emphasizes the fact that we must assume these involved marks will be phonetically equivalent.

With these words differing by the adding of another letter “O,” we suspect that many consumers, particularly those challenged by bad orthography, will little notice nor long remember this difference. Accordingly, we find these marks to be quite similar as to appearance and identical as to sound. Acknowledging that for some customers, a minor difference in connotations may spring from perception of the known English language word, “Prove,” of the cited mark, on the one hand, and the misspelled “Proove” of Applicant’s mark, on the other hand, we nonetheless find the similarities herein outweigh

the dissimilarities, and these two marks will create quite similar overall commercial impressions. Hence, this key *du Pont* factor favors a finding of likelihood of confusion.

B. Relationship of the Goods and Services

We next turn our attention to an evaluation of the relationship of the goods and services in the cited registration to the goods and services named in the application. *Octocom Systems, Inc. v. Houston Computers Services Inc.*, 918 F.2d 937, 16 USPQ2d 1783, 1787 (Fed. Cir. 1990). See also *Hewlett-Packard Co. v. Packard Press Inc.*, 281 F.3d 1261, 62 USPQ2d 1001 (Fed. Cir. 2002). It is settled that it is not necessary that the respective goods and services be identical or even competitive in order to find that they are related for purposes of our likelihood of confusion analysis. That is, the issue is not whether customers would confuse the goods and services themselves, but rather whether they would be confused as to the source of the goods. See *In re Rexel Inc.*, 223 USPQ 830 (TTAB 1984). The goods and services need only be sufficiently related that customers would be likely to assume, upon encountering the goods and services under similar marks, that the goods and services originate from, are sponsored or authorized by, or are otherwise connected to the same source. See *In re Martin's Famous Pastry Shoppe, Inc.*, 748 F.2d 1565, 223 USPQ 1289 (Fed. Cir. 1984); *In re Melville Corp.*, 18 USPQ2d 1386 (TTAB 1991).

By their very terms, Registrant's biochemical goods in Class 1 are directed to scientific research purposes and its involved goods in Class 5 are for the treatment of

cancer, infectious diseases, autoimmune diseases and transplant complication prevention. Its research and design services are broadly available “in the field of biomedical sciences.” Moreover, Applicant has submitted for the record a copy of Registrant’s website.³ While it is impermissible for an applicant to restrict the scope of the cited registrant’s goods and services with extrinsic evidence, we have reviewed the information gleaned from this website to understand more about Registrant’s goods and services. Accordingly, we conclude that Registrant provides its products and services to medical researchers across the globe that work in the world’s leading pharmaceutical and biotechnology companies, as well as several thousand academic and healthcare institutions.

Repeatedly in its identification of goods and recitation of services, Appellant describes its offering of goods and services as intended for advanced scientific applications involving genetics for medical purposes, with these goods and services being provided to medical doctors, genetic scientists and healthcare professionals.

We agree with Applicant that it appears that these respective goods are not directly competitive. We accept for the sake of argument that Applicant’s reagents are different in purpose and nature from Registrant’s preparations. However, whether in connection with researcher’s development of new medicines or the physician’s initiation of drug therapies in treating a patient, the current trend is toward individualizing drug therapies. That is the purpose, by definition, of Applicant’s goods and services in the field of pharmacogenetics. Similarly,

³ <http://www.proimmune.com/ecommerce/page.php?page=clients>

Registrant's webpage discusses its products used to detect epitope-specific immune cells so that they can be analyzed in human blood samples. As to the specific efficacy of a drug, the individual patient's response is related to variability in the protein to which the drug binds. Side-effects from medications also vary due to different proteins involved in the immune response. Hence, at a basic level, all of the goods and services of Registrant and of Applicant are directed toward individualizing drug therapies.

Moreover, the Trademark Examining Attorney has provided for the record evidence showing the same companies involved in research, in diagnostics and in treatment in the fields of genetics and of immunology.⁴ Accordingly, we find that the respective goods and services must be considered related, and this *du Pont* factor favors a finding of likelihood of confusion.

C. Trade Channels

Applicant identifies its target customers as including medical doctors, genetic scientists and healthcare professionals. Registrant identifies its uses as scientific research as well as "treatment of cancer, infectious diseases, autoimmune diseases" Thus, medical, healthcare and scientific research personnel would seem to use both Applicant's and Registrant's goods and services. Moreover, we are not persuaded by Applicant's arguments that "... Registrant's goods are offered and sold by Registrant through its specialized sales representatives and distributors to

⁴ These include the Texas Biomedical Research Institute; Humigen, The Institute for Genetic Immunology; the SardiNIA Study of Aging; Altogen Biosystems; Covance, Inc.; Hycult Biotech; Immco Diagnostics; LGC Group, Ltd.; Life Technologies; and Transgenomic, Inc.

commercial purchasing agents ...” The description of Registrant’s goods and services contains no such limitations. Hence, we find that these respective goods and services are targeted to the same group of scientific and medical professionals, employed in many of the same types of institutions, and this *du Pont* factor favors a finding of likelihood of confusion.

D. Conditions of Sale / Sophistication of Purchasers

As described above, it seems quite likely that the scientists and physicians who would be relying upon these respective goods and services are fairly sophisticated professionals. While we cannot be sure of the sophistication of the actual purchasing agents at these scientific and healthcare institutions, we do find that this *du Pont* factor favors slightly a finding of no likelihood of confusion.

E. Conclusions on Likelihood of Confusion

With quite similar marks and related goods and services moving through some of the same trade channels to researchers and healthcare professionals, we find overall a likelihood of confusion herein despite the probability that many of the involved purchasers may be fairly sophisticated.

Decision: The refusal to register Applicant’s mark **PROOVE** under Section 2(d) of the Lanham Act is hereby affirmed.

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451
General Contact Number: 571-272-8500

dmd

Mailed: August 5, 2015

In re Proove Biosciences, Inc.

Serial No. 86085516

Filed: 10/8/2013

By the Trademark Trial and Appeal Board:

On June 15, 2015, the Board issued a final decision affirming the refusal to register Applicant's mark under Section 2(d) of the Trademark Act because of a likelihood of confusion with the mark in U.S. Registration No. 3250168.

Now before the Board are Applicant's motions to suspend "this proceeding" filed on June 30, 2015 and July 21, 2015. Applicant's June 30, 2015, motion seeks suspension for ninety days pending Applicant's negotiations with the owner of Registration No. 3250168, which Applicant believes may result in procurement of an agreement consenting to the registration of Applicant's mark. Applicant's July 21, 2015 motion renews its request to suspend pending settlement negotiations and adds a request to suspend pending the resolution of a petition to cancel Reg. No. 3250168 that Applicant filed with the Board on July 20, 2015.

Exparte Appeal No. 86085516

Applicant's motions are denied. The Board has issued a final decision and there are no "proceedings" to "suspend." To the extent that Applicant's motion can be construed as a motion to reopen prosecution of Applicant's application to consider a consent agreement, it is also denied. In accordance with TBMP § 1207.02, the Board will grant a request to suspend and remand for consideration of a consent agreement if the request, accompanied by the consent agreement, is filed at any time prior to the rendering of the final decision on appeal. However, after a final decision has issued, prosecution will not be reopened in order to consider a consent agreement because it would require further examination by the examining attorney. See 37 C.F.R. 2.142(g) and *In re Mack Trucks, Inc.*, 189 USPQ 642, 643 (Comm'r 1976).

Applicant is not without remedy. If Applicant obtains a consent agreement, it may file a new application for its mark and submit the consent agreement in that new application. Likewise, applicant can file a new application and request suspension of that application pending disposition of the petition for cancellation of Reg. No. 3250168. Alternatively, if Applicant is dissatisfied with the Board's decision issued in this application, Applicant may seek judicial review of the decision pursuant to Section 21(b) of the Lanham Act, 15 U.S.C. § 1071(b). See 37 CFR § 2.145; TBMP §§ 902 and 903. However, Applicant is advised that the two-month time period specified in 37 C.F.R. § 2.145(d) in which to seek judicial review of the Board's decision has not been stayed by the filing of its motions to suspend. The time period to seek judicial review may be extended upon written

Exparte Appeal No. 86085516

request directed to the attention of the Office of the Solicitor of the USPTO. *See*
37 C.F.R. § 2.145(e); TBMP §§ 902.02 and 903.04.

Form PTO 55 (12-80)

**U.S. DEPARTMENT OF COMMERCE
United States Patent and Trademark Office**

September 22, 2015

(Date)

THIS IS TO CERTIFY that the annexed is an accurate statement of the content entries in the file of the trademark application identified below. The list was taken from the TSDR and TTABvue electronic databases of this Office and comprises the record before the United States Patent and Trademark Office.

The Trademark Application of:

Applicant: Proove Biosciences, Inc.

Application No.: 86/085,516

Date Filed: October 8, 2013

Mark: PROOVE



By authority of the
DIRECTOR OF THE UNITED STATES
PATENT AND TRADEMARK OFFICE

Maia L. Fletcher
Certifying Officer

Prosecution History Serial Number 86/085,516

Date	Description
10/08/2013	APPLICATION
10/08/2013	DRAWING
10/16/2013	NOTICE OF PSEUDO MARK
01/27/2014	NON-FINAL OFFICE ACTION
01/27/2014	XSEARCH SEARCH SUMMARY
03/12/2014	RESPONSE TO NON-FINAL OFFICE ACTION
03/14/2014	REQUEST TO DIVIDE APPLICATION
03/14/2014	AMENDMENT AND MAIL PROCESS COMPLETE
03/21/2014	NOTICE OF DIVISIONAL REQUEST COMPLETED
03/28/2014	CHANGE OF CORRESPONDENCE ADDRESS
04/15/2014	FINAL OFFICE ACTION
04/23/2014	REVOCATION OF ATTORNEY/DOMESTIC REPRESENTATIVE AND/OR APPOINTMENT OF ATTORNEY/DOMESTIC REPRESENTATIVE
04/23/2014	CHANGE OF CORRESPONDENCE ADDRESS
07/23/2014	REVOCATION OF ATTORNEY/DOMESTIC REPRESENTATIVE AND/OR APPOINTMENT OF ATTORNEY/DOMESTIC REPRESENTATIVE
10/14/2014	NOTICE OF APPEAL
10/14/2014	APPEAL ACKNOWLEDGED
11/20/2014	CHANGE OF CORRESPONDENCE ADDRESS
12/12/2014	APPLICANT'S APPEAL BRIEF
12/16/2014	APPEAL FORWARDED TO EXAMINER FOR BRIEF
02/18/2015	EXAMINING ATTORNEY'S APPEAL BRIEF
02/25/2015	CHANGE OF CORRESPONDENCE ADDRESS
03/04/2015	APPLICANT'S REPLY BRIEF
03/05/2015	MEMO FORWARDING REPLY BRIEF
06/15/2015	BOARD DECISION: AFFIRMED
06/30/2015	APPLICANT'S MOTION TO SUSPEND PENDING SETTLEMENT
07/21/2015	APPLICANT'S MOTION TO SUSPEND PENDING RESOLUTION OF CANCELLATION PROCEEDING AND/OR SETTLEMENT
08/05/2015	ORDER DENYING MOTIONS TO SUSPEND
08/13/2015	NOTICE OF APPEAL TO THE FEDERAL CIRCUIT

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing NOTICE FORWARDING CERTIFIED LIST has been served on counsel for Appellant this 22nd day of September, 2015, by U.S. mail as follows:

Patrick R. Dulaney
Ditthavong & Steiner, P.C.
44 Canal Center Plaza, Suite 322
Alexandria, VA 22314

By: Macia L. Fletcher
Macia L. Fletcher
Paralegal Specialist



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Dictionary

prove

verb | \ˈpruːv\

SAVE POPULARITY

Share

- to show the existence, truth, or correctness of (something) by using evidence, logic, etc.
- to show that (someone or something) has a particular quality, ability, etc.
- to turn out to be

Are you a trivia master? Test your knowledge with our [trivia game](#). »

proved **proved or prov-en** | \ˈprü-vən, British also ˈprō- | **prov-ing** | \ˈprü-vɪŋ\

Full

trans:

1 a

2 a



probate>

Lay vs. Lie

'Try and' vs. 'Try to'

rove a will at

b : to test the worth or quality of; *specifically* : to compare against a standard —sometimes used with *up* or *out*

c : to check the correctness of (as an arithmetic result)

3 **a** : to establish the existence, truth, or validity of (as by evidence or logic) <prove a theorem> <the charges were never *proved* in court>

b : to demonstrate as having a particular quality or worth <the vaccine has been *proven* effective after years of tests> <*proved* herself a great actress>

4 : to show (oneself) to be worthy or capable <eager to *prove* myself in the new job>

intransitive verb

: to turn out especially after trial or test <the new drug *proved* effective>

— **prov-able** | \ˈprü-və-bəl | *adjective*

— **prov-able-ness** | *noun*

— **prov-ably** | \-blē | *adverb*

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Examples of PROVE

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The charges against him were never *proved* in court.
Merriam-Webster
The government failed to *prove* its case.
Merriam-Webster
It could not be *proven* that the suspect stole the money.
Merriam-Webster
A person who is charged with a crime is considered innocent until *proved* guilty.
Merriam-Webster

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mathematicians trying to *prove* a theorem

To *prove* her point, she got out the old research.

The tests *proved* the vaccine to be effective.

Her second album was a hit that *proved* her critics wrong.

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Origin of PROVE

Middle English, from Anglo-French *prover*, *pruver*, from Latin *probare* to test, prove, from *probus* good, honest, from *pro-* for, in favor + *-bus* (akin to Old English *bēon* to be) — more at [PRO-](#), [BE](#)

First Known Use: 13th century

Related to PROVE

Synonyms

[demonstrate](#), [document](#), [establish](#), [substantiate](#), [validate](#)

Antonyms

[disprove](#), [rebut](#), [refute](#)

[+] [more](#)

PROVE Defined for Kids

prove

verb | \ˈprüv\

proved | **proved** or **prov·en** | \ˈprü-vən\ | **prov·ing**

Definition of PROVE for Kids

- 1 : to show the truth or existence of something with facts <I can *prove* he's guilty.>
- 2 : to turn out to be <The climb *proved* more difficult than they had expected.>
- 3 : to check the correctness of <*prove* the math theory>
- 4 : to test by experiment or by a standard <Tests *proved* that the vaccine is effective.>

Learn More About PROVE

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What made you want to look up *prove*? Please tell us where you read or heard it (including the quote, if possible).

16 comments



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Linda Landry Horne · Halifax, Nova Scotia

I was watching "The Great British Baking Show" and the contestants proved the dough. In this context it refers to letting the dough rise.

[Reply](#) · [Like](#) · February 15 at 5:49pm



Akande Olaoluwa · Chief Executive Officer at Self-Employed

i love my music to full of provable please send as much as you can send.

[Reply](#) · [Like](#) · November 5, 2014 at 2:57am



Akande Olaoluwa · Chief Executive Officer at Self-Employed

i am a music writer

[Reply](#) · [Like](#) · November 5, 2014 at 2:54am



Gerry Jurrens

A friend wrote "I really dislike when I prove my natural hair color? I was looking for a definition that pertained to a process involved in the maintenance of hair. I didn't find one here.

[Reply](#) · [Like](#) · October 2, 2013 at 2:04pm



Mia Scullark · Regional Sales Manager at Regional Sales Associate (MORTGAGE LENDING)

I saw prove on a Law Case. To eject the possessor of land or to remove a cloud from title, the plaintiff must aver and prove title in himself.

[Reply](#) · [Like](#) · 2 · June 1, 2013 at 5:29pm

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ProVE® MHC Class I Pentamer Libraries

ProVE® MHC Class I Pentamer Libraries provide a quick and cost effective way of screening a number of peptides implicated as epitopes in the immune response under investigation.

ProVE® Libraries bridge the gap between the screening of high numbers of T cell epitopes and the in-depth monitoring and characterization of single specificity CD8+ T cell immune responses with our individually manufactured Pro5® MHC Class I Pentamers. A cost reduction of more than 80% is achievable compared to the synthesis of standard MHC reagents.

ProVE® Pentamer Library Features

Rapid high throughput synthesis process	Fast delivery time (2-3 weeks). A large number of Pentamers can be delivered together.
Flexibility in supplying the peptide	Custom peptides can be synthesized by ProImmune or supplied by the customer.
Full QC for each Pentamer	Consistent and reliable performance compared with self-made tetramers or self-loaded dimeric MHC products.
Low price per multimer and no custom set up charges	Up to 80% cost reduction per reagent when compared to the synthesis of standard Pentamers

Product Specification

A ProVE® Pentamer Library is a set of custom Pentamers. The customer specifies the MHC allele under investigation and provides a small quantity of each of the peptides of interest. Alternatively, a [custom synthesis](#) of the chosen peptides may be ordered from ProImmune at competitive rates.

ProImmune manufactures the Pentamers using a rapid, high throughput, parallel synthesis process and supplies them unlabeled and at a minimum quantity of 20 tests. There is a minimum order of 10 Pentamers per ProVE® Library per allele.

ProVE® Pentamers are suitable for multiplexed staining of antigen-specific T cells in flow cytometry. This enables the user to identify and quantitate different populations of single antigen-specific CD8+ T cells very rapidly and attain conclusive validation of new T cell epitopes.

Quality Control

Each ProVE® Pentamer is QC tested. The protein concentration is determined and translated into quantity for each product. The customer pays for the complete synthesis run and receives those ProVE® Pentamers that pass quality control. The average QC pass rate for HLA-A*02:01 ProVE® Pentamers is 85% for peptides with scores >21 in the SYFPEITHI epitope prediction algorithm (www.syfpeithi.com).

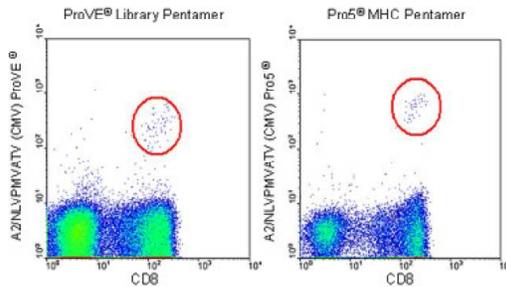
Before proceeding with an order, ProImmune will review the sequences of the peptides submitted for inclusion in the ProVE® Pentamers and will notify the customer of any anticipated problem sequences.

Feature Comparison

	ProVE® Pentamer Libraries	Custom Pro5® Pentamers
Target Applications	Epitope screening Epitope validation, e.g. following ELISPOT analysis Mutagenesis studies	Quantitative epitope confirmation Immune monitoring of confirmed epitopes
Available Alleles	HLA-A*01:01, 02:01, 03:01, 11:01, 24:02, 29:02 HLA-B*07:02, 08:01, 14:02, 15:01, 27:05, 35:01, 40:01 H-2 Kb, Db, Kd, Dd, Ld Mamu A*01, A*02	HLA-A*01:01, 02:01, 03:01, 11:01, 11:03, 24:02, 29:02, 68:01 HLA-B*07:02, 08:01, 14:02, 15:01, 27:05, 35:01, 35:08, 40:01, 51:01, 54:01 H-2 Db, Dd, Kb, Kd, Ld Chimeric A02:01/Kb Mamu A*01, A*02
Minimum Order	10 ProVE® Pentamers	1 Pro5® Pentamer

Delivery Time	2-3 weeks from receipt of peptides	Catalog items 1-2 weeks Custom items 4-6 weeks
Custom Set Up Charge	No	Yes
Pack Size	20-50 tests	50, 150 or 500 tests
Synthesis Process	Rapid high throughput synthesis	Extended synthesis for maximum purity and quality
Quality Control	Full QC process incl. pass/fail QC provided for each reagent	Full QC process
Fluorescent Labels	Pro5® Biotag, R-PE, APC	Pro5® Biotag, R-PE, APC
Labeling Method	Supplied with separate Pro5® Biotag or Fluorotag (R-PE or APC), for two layer staining	Pre-conjugated with Biotin, R-PE or APC Or supplied with separate Pro5® Biotag or Fluorotag (R-PE or APC), for two layer staining
Who Provides the Peptide?	Provided by customer Or synthesized by ProImmune	Synthesized by ProImmune for full quality control
What Do I Receive?	All ProVE® Pentamers that pass quality control	The custom Pentamer
Guarantee Period	3 months, stored at 4°C	Biotin, R-PE or APC labeled: 6 months, stored at 4°C Unlabeled: 12 months, stored at -80°C

Comparative Staining of PBMC with ProVE® MHC Pentamers and Pro5® MHC Pentamers

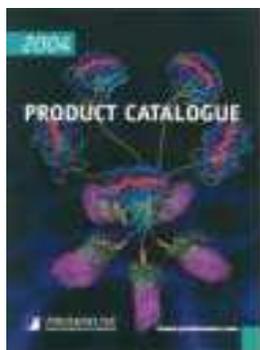


Peripheral blood lymphocytes were obtained from a healthy donor previously shown to respond to the A2-restricted CMV epitope, at approx. 0.15% of total PBMC. The left plot shows cells stained with the ProVE® MHC Pentamer, while the right plot shows cells stained with Pro5® MHC Pentamer made by the conventional process. The antigen-specific population is circled in red on both plots.

(Experimental procedure: cells were incubated with 1µg recombinant A2/CMV complex, followed by 1 test of PE-labeled Pro5® Fluorotag & 1 test of FITC-labeled anti-CD8 antibody (Clone LT8). Approximately 30,000 events are shown in each plot).

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 - [Catalogue Pro5™ MHC Pentamers](#)
 - [Custom Pro5™ MHC Pentamers](#)
- [New: ProVE™ MHC Pentamer Libraries](#)
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"I chose ProImmune for the availability of Custom made reagents, at excellent value. ProImmune's overall service and product performance is excellent"

Dr. Julian Dyson
Hammersmith Hospital
London, UK

"I was recommended ProImmune by my colleagues and I have also found the service they offer excellent ! ProImmune is a fast and reliable source of an important reagent, with excellent performance in very good value; we now do not need to invest any more work force on 'in-house' MHC multimer synthesis"

Dr. Antonio Bertoletti
University College
London, UK

"ProImmune's MHC multimers performed perfectly well ! I received excellent technical support and sales service from ProImmune...I will order again soon"

Dr. Georgi Angelov
CERVI / INSERM U503
Lyon, France

"I was happy with the way ProImmune's MHC multimers performed...I wouldn't hesitate to recommend ProImmune's products to others"

Dr. Megan Barnden
CSL Ltd
Victoria, Australia

"Actually, in an unprecedented record time, the Pro5 Pentamers we ordered arrived to our lab in just four days...I wanted to let you know how extremely grateful I personally am !"

Dr. Oscar Bruna Romero
Centro de Pesquisas Rene-Rachou-
FIOCRUZ
MG, Brazil

"We have found that ProImmune's MHC multimers function very well, like ours; we have now ceased constructing tetramers ourselves, because you are more rapid and offer a larger repertoire of MHC products"

Dr. Vincenzo Barnaba
University of Rome 'La Sapienza'
Rome, Italy