

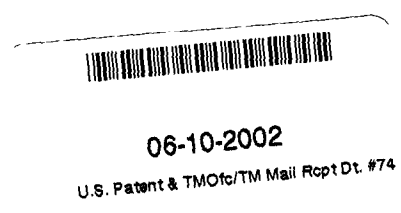
TTAB

ATTORNEY'S DOCKET: I00248/50000

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

In the Matter of:

Applicant: Point Biomedical Corporation
Serial No.: 76/219,902
Filed: March 2, 2001
Mark: POINT BIOMEDICAL
Published: May 7, 2002



CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)

The undersigned hereby certifies that this document is being placed in the United States mail with first-class postage attached, addressed to BOX TTAB FEE, COMMISSIONER OF TRADEMARKS, 2900 Crystal Drive, Arlington, Virginia 22202-3513 on the 6th day of June, 2002.

Michael A. Albert

Box TTAB Fee
Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3515

Sir:

NOTICE OF OPPOSITION

This Notice of Opposition relates to the application of Point Biomedical Corporation ("Applicant") of San Carlos, California, in International Classes 5, 35, and 40, shown in Application Serial No. 76/219,902, filed on March 2, 2001, and published in the Official Gazette on May 7, 2002.

Point Therapeutics, Inc. ("Point Therapeutics" or "Opposer"), organized and existing under the laws of the Commonwealth of Massachusetts, having its principal place of business at 75 Kneeland Street, 10th Floor, Boston, Massachusetts 02111, believes that it will be damaged by registration of POINT BIOMEDICAL and hereby opposes the same.

The grounds for opposition are as follows:

1. Point Therapeutics is a corporation duly organized under the laws of the Commonwealth of Massachusetts, having its principal place of business at 75 Kneeland Street, 10th Floor, Boston, Massachusetts 02111. Point Therapeutics has made commercial use of the mark POINT THERAPEUTICS since at least as early as June 1, 1998 in connection with biotechnology products and related licensing services. Point Therapeutics is also the owner of a trademark application for the mark POINT THERAPEUTICS, filed on May 14, 1997, for which a Notice of Allowance was issued on July 28, 1998, a Statement Of Use has been accepted and the mark was allowed for registration on March 5, 2002.

2. Notwithstanding Point Therapeutics' constructive and actual use of the POINT THERAPEUTICS trademark for biomedical products and services as early as May 14, 1997 and June 1, 1998, respectively, Applicant filed an application under Serial No. 76/219,902 on March 2, 2001 to register the mark POINT BIOMEDICAL for a range of biomedical goods and services that are closely related to those provided by Opposer.

3. Applicant's mark POINT BIOMEDICAL is confusingly similar to POINT THERAPEUTICS which is protected at common law and will shortly be covered by the above pending registration as well.

4. Potential purchasers of Applicant's products, users of its services, business partners, and other members of the public are likely to believe that such goods or services originate with, or are authorized or approved by, Point Therapeutics, when, in fact, they are not.

5. If Applicant is granted the registration on the application herein opposed, it would thereby obtain a prima facie exclusive right to use the mark POINT BIOMEDICAL, which would be source of damage to Point Therapeutics.

WHEREFORE, POINT THERAPEUTICS believes it will be damaged by said application for registration and prays that this Opposition be sustained under 15 U.S.C. §1052(d).

The filing fee for this Opposition in the amount of \$300.00 is enclosed herewith. This Opposition is submitted in duplicate. The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to our Deposit Account No. 23/2825.

Respectfully submitted,

Date: June 6, 2002

By



Michael A. Albert
WOLF, GREENFIELD & SACKS, P.C.
600 Atlantic Ave.
Federal Reserve Plaza
Boston, MA 02210

Attorneys for Opposer
POINT THERAPEUTICS, INC.

Attorney's Docket No.: I00248/50000

Due Date: 6/06/02

620906

ATTORNEY'S DOCKET: I00248/50000

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U.S. Patent & TMO/TM Mail Rpt Dt. #74

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Michael A. Albert

TRADEMARK TRIAL AND
APPEAL BOARD
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Box TTAB Fee
Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3515

Sir:

Transmitted herewith are the following documents:

- (X) Notice of Opposition
- (X) Return Receipt Postcard

If the enclosed papers are incomplete, the Mail Room and/or the Application Branch is respectfully requested to contact the undersigned at (617) 720-3500, Boston, Massachusetts.

A check in the amount of \$300.00 is enclosed to cover the fee for filing a notice of opposition. If the fee is insufficient, the balance may be charged to the account of the undersigned, Deposit Account No. 23/2825. A duplicate of this sheet is enclosed.

Respectfully submitted,

Michael A. Albert
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston, MA 02210
Tel: (617) 720-3500

Attorney Docket No.: I00248/50000
Date: June 6, 2002