

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

In the matter of application)
Serial No.: 78/334,954)
)
Filed: December 2, 2003)
)
Applicant: Coley Pharmaceutical Group, Inc.)
)
Mark: VAXIMMUNE)
)
Published: September 14, 2004)

Opposition No. _____

BIOMUNE COMPANY,)
)
Opposer,)
)
v.)
)
COLEY PHARMACEUTICAL GROUP, INC.,)
Applicant.)
)

Commissioner for Trademarks
P. O. Box 1451
Alexandria, Virginia 22313-1451

Attention: Trademark Trial and Appeal Board



Sir:

11-12-2004

U.S. Patent & TMO/TM Mail Rpt Dt: #77

NOTICE OF OPPOSITION

Biomune Company, a Kansas partnership with a principal business address at 8906 Rosehill Road, Lenexa, Kansas 66215 ("Opposer") believes that it will be damaged by the registration of the mark shown in Serial No. 78/334,954, namely, "Vaximmune", for adjuvants for vaccines.

11/18/2004 ZCLIFTD1 00000036 78334954

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(Docket 2548)

I hereby certify that this paper is being deposited with the U.S. Postal Service with sufficient postage as first class mail addressed to the Commissioner of Trademarks, P. O. Box 1451, Alexandria, Virginia 22313-1451, Attention: Trademark Trial and Appeal Board on November 9, 2004.

Michael Yakimo, Jr.
Michael Yakimo, Jr., P. O. Reg. No. 28,549

The specific grounds for opposition are as follows:

1. Opposer has adopted and for many years has been engaged in promoting and offering veterinary vaccines and nutritional supplements for humans.
2. Prior to Applicant's December 2, 2003 filing date of its application for registration, Opposer has promoted, offered and sold MAXIMUNE veterinary vaccines and vitamin supplements.
3. Opposer is the owner of United States Trademark Registration No. 1,879,089 covering the mark MAXIMUNE for veterinary vaccines. The said registration is valid and subsisting, and a copy thereof is attached hereto as Exhibit A.
4. The MAXIMUNE trademark is well known and has become a highly distinctive identifier of Opposer and its goods. The MAXIMUNE trademark constitutes an important and extremely valuable symbol of Opposer's reputation and the goodwill associated therewith.
5. On information and belief, Applicant's goods identified in its application may encompass Opposer's goods or are within the type of goods sold or to be sold by Opposer and through the same channels of trade as Opposer.
6. The designation "Vaximmune" is likely, when applied to Applicant's goods, to cause confusion or mistake or to deceive.
7. Opposer will be damaged by the use and registration of "Vaximmune" by Applicant because purchasers, persons in the trade and the public will mistakenly assume that Applicant's goods are associated with, endorsed by or in some other way related to or sponsored by Opposer, to the detriment of Opposer.

Int. Cl.: 5

Prior U.S. Cl.: 18

United States Patent and Trademark Office **Reg. No. 1,879,089**
Registered Feb. 14, 1993

**TRADEMARK
PRINCIPAL REGISTER**

MAXIMUNE

**BIOMUNE COMPANY (PARTNERSHIP)
8906 ROSEHILL ROAD
LENEXA, KS 66215**

**FIRST USE 2-23-1993; IN COMMERCE
2-23-1993.**

**FOR: VETERINARY VACCINES; NAMELY,
AVIAN AND POULTRY VACCINES, IN CLASS
5 (U.S. CL. 18).**

SN 74-342,310, FILED 12-18-1992.

TOMAS V. VLCEK, EXAMINING ATTORNEY

