

ESTTA Tracking number: **ESTTA729898**

Filing date: **02/26/2016**

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

**Notice of Opposition**

Notice is hereby given that the following party opposes registration of the indicated application.

**Opposer Information**

Name	INMUNE BIO, INC.
Granted to Date of previous extension	03/05/2016
Address	1224 Prospect Str. Suite 150 La Jolla, CA 92037 UNITED STATES
Attorney information	Joshua S. Schoonover Coastal Patent Law Group, P.C. PO Box 131299 Carlsbad, CA 92013 UNITED STATES LawGroup@CoastalPatent.com Phone:7604381300

**Applicant Information**

Application No	86579236	Publication date	01/05/2016
Opposition Filing Date	02/26/2016	Opposition Period Ends	03/05/2016
Applicant	NANTKWEST, INC. 2533 SOUTH COAST HIGHWAY 101 STE. 210 CARDIFF-BY-THE-SEA, CA 920072133 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 001. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Cells and cell-derived preparations for scientific, laboratory, medical, clinical, therapeutic, and diagnostic research; kits comprised of cells and cell-derived preparations, reagents and related instructions for clinical, medicinal, therapeutic, and veterinary research purposes
Class 005. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Cell-derived preparations for clinical, medicinal, therapeutic, and veterinary purposes; kits comprised of cell-derived preparations, reagents and related instructions for clinical, medicinal, therapeutic, and veterinary purposes
Class 042. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Research in the fields of cancer and infectious diseases; product development in the fields of science, medicine, veterinary medicine, pharmaceuticals, therapeutics and research related thereto
Class 044. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Providing information relating to clinical, medicinal, therapeutic, and veterinary properties of cells and cell-derived preparations

## Grounds for Opposition

The mark is merely descriptive	Trademark Act section 2(e)(1)
The mark is not inherently distinctive and has not acquired distinctiveness	Trademark Act section 1,2 and 45; and section 2(f)

Attachments	INB_001001_OP_Notice-OP.PDF(1603002 bytes )
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## Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/JSS/
Name	Joshua S. Schoonover
Date	02/26/2016

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

In the Matter of Application Serial No. 86/579,236  
For the mark: TANK  
Published in the *Official Gazette* on January 05, 2016

INMUNE BIO, INC.

Opposer,

v.

NANTKWEST, INC.

Applicant.

Opposition No.: \_\_\_\_\_

**NOTICE OF OPPOSITION**

INMUNE BIO, INC. (“Opposer” or “INMUNE”), a Nevada corporation, with an address at 1224 Prospect St., Suite 150, La Jolla, CA 92037, believes that it is or will be damaged by registration of the mark that is the subject of the above-referenced application, and hereby opposes the same.

The grounds for opposition are as follows:

1. INMUNE is presently engaged in research and development of products and services related to cancer treatment, and intends to commercialize such products and services, including but not limited to: cells and cell-derived preparations, kits containing cells and cell-derived preparations; research in the fields of cancer and infectious diseases; and providing information relating to clinical, medicinal, therapeutic, and veterinary properties of cells and cell-derived preparations. In particular, INMUNE is in the business of commercializing products

and services related to natural killer “NK” cells, and the preparation and administration of therapeutic treatments associated with NK cells for the treatment of cancer and other infectious diseases.

2. NANTKWEST, INC. (hereinafter referred to as “Applicant”) is not now and never was entitled to appropriate or register as a trade mark the term TANK (“the mark”), for which it seeks registration in its Application Serial No. 86/579,236, published on pages 4178-4179 of the Official Gazette of January 05, 2016, for the following classifications of goods and services:

“Cells and cell-derived preparations for scientific, laboratory, medical, clinical, therapeutic, and diagnostic research; kits comprised of cells and cell-derived preparations, reagents and related instructions for clinical, medicinal, therapeutic, and veterinary research purposes”, in International Class 001;

“Cell-derived preparations for clinical, medicinal, therapeutic, and veterinary purposes; kits comprised of cell-derived preparations, reagents and related instructions for clinical, medicinal, therapeutic, and veterinary purposes”, in International Class 005;

“Research in the fields of cancer and infectious diseases; product development in the fields of science, medicine, veterinary medicine, pharmaceuticals, therapeutics and research related thereto”, in International Class 042, and

“Providing information relating to clinical, medicinal, therapeutic, and veterinary properties of cells and cell-derived preparations”, in International Class 044.

The goods and services of the Application are hereinafter collectively referred to as “Applicant’s Goods and Services”.

3. INMUNE is presently engaged in commercial development of products and services which are the same, substantially similar to, or competitive with, the Applicant’s Goods and Services; as such, the Applicant is a competitor of INMUNE.

4. On information and belief, the Applicant’s targeted consumer base overlaps with, or will overlap with, INMUNE’s targeted consumer base.

5. On information and belief, the Applicant has not yet offered for sale, or sold, products or services connected to the mark TANK.

6. Natural killer cells (“NK cells”) are a type of lymphocyte (a white blood cell) and a component of the innate immune system. NK cells play a major role in the host-rejection of both tumors and virally infected cells.

7. Since prior to March 27, 2015, the Applicant’s filing date, the academic, medical and scientific literature has referred to “tumor associated natural killer cells”, also known as “tumour associated NK” and “tumor activated NK” cells, by use of the acronyms “TANK” and “TANKs” (plural designation). Accordingly, medical and scientific professionals, especially those engaged in the research or medical applications of NK cells, understand the acronym TANK to be synonymous with the merely descriptive wording it represents.

8. On information and belief, the Applicant knew or should have known, prior to March 27, 2015, the Applicant’s filing date, of the use of TANK within the scientific and medical fields as an acronym describing tumor activated NK cells.

9. On information and belief, the Applicant, having knowledge of the meaning of TANK as understood within the scientific and medical literature, and having knowledge of the mark being merely descriptive of the Applicants Goods and Services, failed to disclose information concerning the meaning of the mark to the USPTO.

10. On information and belief, the Applicant intends to use the mark TANK in connection with products and services related to activated NK cells and their application for the treatment of cancer (i.e., tumors) and other diseases.

**FIRST COUNT – MARK IS MERELY DESCRIPTIVE**

11. Opposer repeats and realleges paragraphs 1 through 10 as if fully set forth herein.

12. TANK, for Applicant's Goods and Services, is not entitled to registration on the Principal Register because it is merely descriptive under Section 2(e)(1) of the Lanham Act.

13. Opposer and other persons and businesses should be free to use "TANK" in connection with products and services related to "tumor associated natural killer" cells, also known as "tumour associated NK" and "tumor activated NK" cells.

14. If the Applicant is granted a registration of the merely descriptive designation TANK for use in connection with the Applicant's Goods and Services, such registration will be inconsistent with the right of Opposer to use TANK in connection with its marketing descriptions and sale of products and services related to NK cells for cancer treatment; i.e. tumor activated NK cells. Opposer has a sufficient real interest in using the same descriptive acronym TANK in connection with its business.

**SECOND COUNT – MARK HAS NOT ACQUIRED DISTINCTIVENESS**

15. Opposer repeats and realleges paragraphs 1 through 14 as if fully set forth herein.

16. The designation “TANK” has not acquired distinctiveness as a trademark belonging to Applicant for the stated Applicant’s Goods and Services, and is therefore not entitled to registration on the Principal Register under Section 2(f) of the Lanham Act.

WHEREFORE, Opposer prays that said Application Serial No. 86/579,236 be rejected and that registration of the designation TANK as a trade mark / service mark to Applicant be refused and denied. The required fee of \$300 per classification is being submitted with this Notice of Opposition.

Opposer appoints Joshua S. Schoonover of Coastal Patent Law Group, P.C., having an office at: 1340 Specialty Dr., Ste i, Vista, CA 92081, and a mailing address of: PO Box 131299, Carlsbad, CA 92013, attorney at law, to act as its attorney in the above-identified opposition, to prosecute said opposition, to transact all business in the Patent and Trademark Office and the United States Courts in connection with said opposition, and to sign his name to all documents which may hereinafter be filed in connection with said opposition and to receive all official communications relating to the same. Please direct all communications to Joshua Schoonover.

Please charge any additional fees or credit overpayment to Deposit Account 50-4842,  
making reference to INB.001001.OP.

Dated: February 26, 2016

By: 

Joshua S. Schoonover, Esq.  
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Carlsbad, CA 92013  
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*Attorney for Opposer*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing NOTICE OF OPPOSITION has this 26<sup>th</sup> day of February 2016, been mailed pre-paid, first-class mail to the below-identified Attorney/Correspondent for the Applicant at his/her place of business:

ALICIA M. PASSERIN  
ONE OXFORD CENTER, 38<sup>TH</sup> FLOOR  
301 GRANT STREET  
PITTSBURGH, PA 15219

  
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Victoria A. Jones