

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS FIRST CLASS MAIL IN AN ENVELOPE ADDRESSED TO THE COMMISSIONER FOR TRADEMARKS, P.O. BOX 1451, ALEXANDRIA VA 22313-1451 ON THE DATE INDICATED BELOW

By: 

DATE: 11-7-06

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

BIOGEN IDEC INC.

Opposer,

v.

**Opposition No. 91,165,803**

BIOGENESIS NUTRACEUTICALS, INC.

v.

Applicant.

**NOTICE OF RELIANCE**

Honorable Commissioner for Trademarks  
P.O. Box 1451  
Alexandria VA 22313-1451

Dear Commissioner:

Pursuant to T.B.M.P. §704.08 and 37 C.F.R. §2.122(e), Opposer hereby gives notice that it intends to rely on copies of the following printed publications from newspapers, periodicals and journals available to the general public in libraries or of general circulation among members of the public or that segment of the public which are relevant to this proceeding to establish that the BIOGEN name and mark are well known:

**Description of Publication**

1. "Commentary: Biotech Stocks: So Sexy - And So Scary," Business Week, September 11, 1995. Page 2.
2. "If A Product Is Made With Machines, Superior Controls Can Automate Entire Production," New Hampshire Business Review, May 18, 2001. Page 1.
3. "Who's Up/Who's Down," Boston Magazine, May 2002. Page 3.
4. "Credit Where Due," Barron's, September 2, 2002. Entire document.
5. "Agency Of The Year," Med Ad News, April 2004. Page 3.

6. "Sourcing Harnesses Entrepreneurial Spirit; Working Within Its Culture, Biogen Idec Creates Purchasing Operation That Saves More Than \$30 Million," Purchasing, June 3, 2004. Entire document.
7. "The Biotech Name Game: Figuring Out What To Name A Company Can Be A Management Team's First Big Test; Bioscience," San Diego Business Journal, July 5, 2004. Page 2.

Respectfully submitted,

Dated: 11/7/06

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the attached Notice of Reliance filed with U.S. Trademark Trial and Appeal Board was served on counsel for the Applicant at the addresses and on the date listed below via the United States Postal Service as First Class Mail, postage pre-paid:

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Dated: Nov. 7, 2006



A handwritten signature in black ink, appearing to read "John G. Dudgeon", is written over a horizontal line.

33 of 37 DOCUMENTS

Copyright 1995 McGraw-Hill, Inc.  
Business Week

September 11, 1995

**SECTION:** NEWS; Analysis & Commentary: COMMENTARY; Number 3441; Pg. 44**LENGTH:** 735 words**HEADLINE:** COMMENTARY: BIOTECH STOCKS: SO SEXY -- AND SO SCARY**BYLINE:** By Joan O'C. Hamilton; Hamilton tracks biotechnology from San Francisco.**BODY:**

For more than a decade now, fortunes have been made riding the huge rallies in biotechnology stocks that have routinely followed the industry's periodic dances on the edge of oblivion. Here we go again.

Biotech stocks are up some 40% since late May (chart). The rally began, as have several before it, with a few dollops of good news: In June, a drug from Cephalon Inc. to fight the neurological disorder ALS (Lou Gehrig's disease) showed strong results in late-stage clinical trials, more than doubling Cephalon's market value. Also, Amgen Inc.'s much-ballyhooed gene that makes fat mice skinny caught the public's imagination — despite the lack of any scientific data showing that it will work in people. Meanwhile, regulators are signaling that they'll make biotech drug approvals somewhat easier. ANOTHER FALL? Investors, however, would do well to cast a wary eye on this rebound. The science in most companies is extremely exciting — but a long way from making the leap to becoming consistent, product-spawning technology. Plus, the industry is still a bloated mess. The hundreds of biotech companies in the U.S. will need far too much capital for most to survive long-term.

In short, biotech is inevitably headed for another fall. It's just a question of when. Since the public-capital spigot ran dry in 1993, only a couple of dozen or so outfits have folded, merged, or been acquired. A few large players have placed some big bets — such as Glaxo Holdings PLC's \$533 million purchase of Affymax Research Institute. But most big drug makers haven't gone on the shopping spree that biotech investors and companies were anticipating. Worse, lots of new companies are entering the market. "This is not a rally the value players are generating," notes Matthew M. Geller, an analyst at Oppenheimer & Co.

In fact, investing pros agree that the rise in share prices is being fueled largely by momentum investors who focus on fast-growing sectors of the market. They fear they have topped out in high-tech stocks and are cycling money into a sector they perceive as having big-return potential. Many old biotech hands can barely hide their cynicism: "Fresh meat," chortles one venture capitalist about the new players — quickly adding: "Oh, God, don't quote me on that."

The market's on-again, off-again passion for biotech is understandable: As Amgen has proven, a couple of home-run drugs can be a license to print money. Unfortunately, the harsh reality is that the vast majority of seemingly great ideas fail. Diseases that have proven truly intractable, such as cancer, are terribly complex. They defy magic-bullet cures — making home runs few and far between.

For a big drug company with lots of cash and resources, succeeding with 1 out of 10 drugs tested on people is good enough. But in the biotech arena, venture capitalists and entrepreneurs typically exploit overheated capital markets and turn 10 ideas for drugs into 10 separate companies. Each one faces nearly impossible odds.

One sure sign the bull run may be ending is the dozen or so startups that have launched initial public offerings. "That's going to hurt the rally," predicts Fidelity Select Biotechnology Fund manager Karen Firestone. "You don't need more companies, and you don't need them competing with existing companies for funds." "NEWS FLOW." Time to sell? Maybe not immediately. Cynicism isn't keeping analysts and fund managers from promoting their favorite stocks. Protein Design Labs Inc. and Cor Therapeutics Inc. have loyal institutional fans promoting them as "comeback" stocks after bad news earlier this year sent those stocks reeling. The newly public Sequana is considered

sexy because it's working in the hot field of DNA analysis. Even blue-ribbon names such as Amgen, Chiron, and Biogen are trading at high multiples but could go higher, because they have broad product portfolios.

Remarkably, many analysts rely more on "news flow" than cash flow in their forecasts. Their rationale: Within a few weeks, Genzyme Corp. and Chiron will release word on how some key trials are going. If there is even incrementally positive news, it's likely to buoy the confidence of rookie investors who are pouring money into biotech.

Maybe. But if history is a guide, it's only a matter of time before a few high-profile flops will burst the biotech balloon. So, investor beware.

URL: <http://www.businessweek.com/index.html>

**GRAPHIC:** Illustration: Chart: Biotech's Rise CHART BY ERIC HOFFMANN/BW

**LOAD-DATE:** September 07, 1995

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