

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

In the matter of Registration No. 2,825,088
Issued March 23, 2004
For the Mark SVT®

TTAB

#78/194,184

Dade Behring, Inc.)
)
)
Petitioner)
)
v.)
)
Sciteck, Inc.)
)
)
Registrant)
)

Date Received: 08/21/04
Cancellation No. : 92043566
Reg. No.: 2825088

Date: September 15, 2004

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail #EU757850423US addressed to: Box Trademark Trial and Appeal Board, Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3514

Signature: _____ September 15, 2004.
Name: Jack V. Smith, CEO

Commissioner for Trademarks
2900 Crystal Drive, Arlington,
Virginia 22202-3514

Sir:

Sciteck, Inc. a corporation doing business in North Carolina, with its principal place of business at 317 Rutledge Road, Fletcher, NC 28732 (hereinafter referred to as "Registrant"), states that it is not damaging Dade Behring (hereinafter referred to as "Dade") by a registration mark SVT® (Registration No. 2,825,088) owned by Sciteck. Sciteck's sole stockholder is Jack V. Smith (hereinafter referred to as "Smith") and is being damaged by Dade's



petition, including being damages from the following but not limited to Dade's attempt to harm and damage the business (e.g. Sciteck) of Jack V. Smith also to include Dade's own tortious interference with a business contract (attached) signed between Dade and Smith wherein Dade would not interfere with the business of Smith which includes adulteration testing. This is not limited to the fact that prior to signing this agreement in May of 2002 Dade conspired to commit fraud when Dade issued 80,000 stock options of Dade Behring stock to Smith while claiming bankruptcy less than 2 months later without notice to Smith that the stocks they gave to Smith were fraudulently represented and did not actually exist. In addition, Dade contracted from Smith the rights to manufacture adulteration testing reagents, which Smith taught Dade. Smith is the first individual to receive a patent for the use of adulteration reagents and in fact was the first person to sell and market such products and in fact coined the term "specimen validity testing".

Adulteration Testing:

"**Adulteration Testing**" is the main term used currently and has been for the last 15 years. "**Adulteration Testing**" stands for the testing of urine specimens submitted for drugs-of-abuse testing as to whether any foreign substances are present which may adversely affect the drugs-of-abuse testing results. It is **patentably** untrue that SVT® is in common use in the industry with regards to **Adulteration Testing**. This is not completely surprising with regards to Dade's limited knowledge of Adulteration Testing. I only introduced them to this industry

in 1999. In an effort to educate Dade and counsel the following should suffice. In the following explanation try to replace "**Adulteration**" with "**Specimen Validity Testing**" or "**SVT**". It doesn't work and to suggest that "Specimen Validity Testing" is now the "**Xerox**" statement for "**Adulteration Testing**" is beyond ridiculous.

To further explain Adulteration Testing:

As the use of illicit drugs in this country has increased, public concern over the problems associated with its effects has grown into a major concern. This concern has led to workplace drug testing in order to identify, treat, and remove active drug users from the workforce. This trend started in the military, and spread rapidly to law enforcement and any "safety-sensitive" private sector jobs such as airline pilots, truck drivers, and active crew members of public transportation. These initial strides into drug testing in the workplace revealed the obtrusive incursion of drug use and abuse in the daily lives of a significant portion of Americans. Further research indicated the staggering costs to public and private industry in terms of lost productivity, increased health care costs, and human suffering and death due to this scourge of drug abuse. As a result, drug testing has rapidly spread to all areas of the public and private sector. The vast majority of workplace drug testing has taken the form of urine testing, because of ease of collection, low cost, and effective indication of recent drug use. Other forms of testing include analysis of blood, saliva, sweat, and hair.

Because the effects of a positive test on the individual can be significant, and traumatic, the analysis procedures must guarantee accuracy with the

emphasis on zero false positive results. On the other hand, all efforts must be made to detect all drug users in order to insure the success of this policy. These two requirements dictate a policy of close and vigorous scrutiny of the collection, testing, and reporting procedures. Juxtaposed to these closely monitored procedures is the deep and abiding desire of illicit drug users to avoid detection in order to keep their use secret, and to keep their jobs. Thus driven by these key desires, the ingenuity of a few in the drug abuse subculture has led to a plethora of ways to defeat the workplace drug testing procedures. These "**adulteration**" methods all conspire to produce the same desired effect: a false negative result, which will protect the drug user's secret.

Adulteration techniques can be divided into two distinct types. The first utilizes an "in vivo" technique in which the user consumes the adulterant. The second technique utilizes an "in vitro" method in which the abuser adds the adulterant directly to the urine specimen submitted for testing.

The drug testing procedure involves two distinct parts. The initial segment is a panel of screening tests for the individual drugs. If a positive result is obtained in any of these initial tests, then a confirmation assay is performed for each drug that screened positive. Most **adulteration** techniques are aimed at the screening process, because of the inherent fragile nature of these inexpensive assays, which adapt well to rapid, automated analysis techniques. All screening tests utilize antibody/antigen reactions quantified via an enzyme indicator. On the other hand, confirmation assays are labor and time intensive, highly accurate, expensive, and more difficult to **adulterate**. In addition, the positive screen has already raised a red flag, thereby drawing attention to the sample. The confirmation analysis utilizes GC-MS (gas chromatography mass spectrometry) testing which is considered the "gold standard" for drug assays scientifically and legally.

The "in vivo" methods function in one of three ways. These include dilution of the analyte of interest to a level below that required for a positive result, decreasing the time required to eliminate the consumed drug, or consuming a compound that will interfere with the screening method. Dilution is effected by consuming a large volume of liquid together with a diuretic to speed elimination of urine, and a B vitamin to add yellow color to the urine sample. Some commercial in vivo dilution products or "flushes" are sold under the following names: Carbo Clean, Test Pure, Kleen Test, Quick Flush, Naturally Kleen, Test Free, UA Flush, Zydor's Special Blend, Daily Pure, Vale's Quick Clean, Test'n, and UR'n Kleen. Decreasing the elimination time will often enable the weekend drug user to avoid testing positive on a Monday morning drug test. This is accomplished by consuming acidic liquids (e.g. acidic fruit juices or ammonium chloride) to speed up elimination of basic drugs, or consuming basic liquids to speed up elimination of acidic drugs. Examples of an internally ingested substance which will disrupt the screening test procedure include aspirin and mefenamic acid, a prescription analgesic pain killer.

In vitro methods utilize literally hundreds of products and compounds that will adversely affect either the screening or confirmation process. Products affecting the screening process include many household products (i.e. all types of cleaners including hand, clothes and dishwashing detergents and soaps, table salt, hydrogen peroxide (oxidant), oxidants (such as sodium nitrite, sodium bromate, potassium bromate, bromine, enzymes (such as contained in **meat tenderizer**, digestive enzymes, etc.), bleach (sodium hypochlorite (Cl), an oxidant), fingernail polish remover, vinegar, Drano, liquid plumber, sodium bicarbonate, Visine, fingernail polish, swimming pool cleaning chemicals and acid), or specialty products sold commercially as **adulterants** (i.e. Urine Luck (contains the oxidizer pyridinium chlorochromate), Purafyzit, Urine Sured, and

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