

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Healthpoint, Ltd.

Mark: MVE

App. No.: 77/007258

Filed:

September 26, 2006

Atty. Dkt. No.: 2386-610USTM

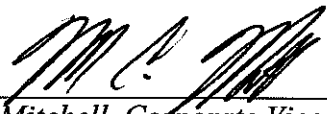
COMMISSIONER FOR TRADEMARKS
P.O. Box 1450, Alexandria, VA 22313-1450

Affidavit of Facts

I, Mark A. Mitchell, hereby declare that:

1. I am the Corporate Vice President and General Counsel of Healthpoint, Ltd., having a business address of 3909 Hulen Street, Fort Worth, Texas 76107.
2. HealthPoint, Ltd., together with its affiliates and licensees (collectively referred to herein as "HealthPoint"), is a well established pharmaceutical company that specializes in the development, manufacturing, and marketing of pharmaceutical products for the treatment of traumatized skin. HealthPoint sells a number of different skin care preparations but does not generally sell the process or systems for manufacturing such preparations.
3. Healthpoint has developed formulations of skin care preparations called "multivesicular emulsion technology". Multivesicular emulsion technology is essentially a patented formulation that improves the sustained release of softening and moisturizing characteristics as well as medicaments in skin care preparations. Apart from its sale of skin care preparations, HealthPoint does not sell the multivesicular emulsion technology to consumers.
4. The mark MVE is derived from the technical term "multivesicular emulsion technology."
5. Healthpoint prints the mark MVE on the labels that are affixed to a number of its pharmaceutical preparations. The purpose of the MVE Mark is (i) to help consumers identify skin care preparations produced by Healthpoint and (ii) to suggest to consumers that skin care preparations bearing the mark MVE have sustained softening and moisturizing characteristics and/or medicaments.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the Application or any registration issued thereon.



*Mark A. Mitchell, Corporate Vice President and
General Counsel of Healthpoint, Ltd.*

02-20-08

Date