

**TRADEMARK ASSIGNMENT**

Electronic Version v1.1  
 Stylesheet Version v1.1

<b>SUBMISSION TYPE:</b>	NEW ASSIGNMENT
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<b>NATURE OF CONVEYANCE:</b>	MERGER AND CHANGE OF NAME
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<b>CONVEYING PARTY DATA</b>			
<b>Name</b>	<b>Formerly</b>	<b>Execution Date</b>	<b>Entity Type</b>
ACUTE THERAPEUTICS, INC.		06/16/1998	CORPORATION: DELAWARE

<b>RECEIVING PARTY DATA</b>	
<b>Name:</b>	ATI ACQUISITION CORP.
<b>Street Address:</b>	3359 DURHAM ROAD
<b>City:</b>	DOYLESTOWN
<b>State/Country:</b>	PENNSYLVANIA
<b>Postal Code:</b>	18901
<b>Entity Type:</b>	CORPORATION: DELAWARE

<b>PROPERTY NUMBERS Total: 1</b>		
<b>Property Type</b>	<b>Number</b>	<b>Word Mark</b>
Registration Number:	2232473	SURFAXIN

<b>CORRESPONDENCE DATA</b>	
<b>Fax Number:</b>	(212)326-3939
<i>Correspondence will be sent via US Mail when the fax attempt is unsuccessful.</i>	
<b>Phone:</b>	212 326-3939
<b>Email:</b>	NAZOUBEK@JONESDAY.COM
<b>Correspondent Name:</b>	JONES DAY
<b>Address Line 1:</b>	222 EAST 41ST STREET
<b>Address Line 4:</b>	NEW YORK, NEW YORK 10017

<b>ATTORNEY DOCKET NUMBER:</b>	009415-006-999
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<b>NAME OF SUBMITTER:</b>	NANCY ZOUBEK, ESQ.
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<b>Total Attachments: 5</b> source=mreg1#page1.tif source=mreg1#page2.tif source=mreg1#page3.tif source=mreg1#page4.tif source=mreg1#page5.tif
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**TRADEMARK**

CERTIFICATE OF MERGER  
MERCING  
ATI ACQUISITION CORP.  
WITH AND INTO  
ACUTE THERAPEUTICS, INC.

P.P.C. (ATI)

Pursuant to Section 251 of the General Corporation Law of  
the State of Delaware

Acute Therapeutics, Inc., a Delaware corporation ("ATI") and ATI Acquisition Corp., a Delaware corporation ("Acquisition Corp." and, together with ATI, the "Constituent Corporations"), DO HEREBY CERTIFY AS FOLLOWS:

FIRST: That ATI was incorporated on September 11, 1996, pursuant to the General Corporation Law of the State of Delaware (the "Delaware Law"), and that Acquisition Corp was incorporated on March 5, 1998, pursuant to the Delaware Law.

SECOND: That an Agreement and Plan of Merger (the "Merger Agreement") dated as of March 5, 1998 among ATI, Acquisition Corp. and Discovery Laboratories, Inc., a Delaware corporation, as amended, setting forth the terms and conditions of the merger of Acquisition Corp. with and into ATI (the "Merger"), has been approved, adopted, certified, executed and acknowledged by each of the Constituent Corporations in accordance with Section 251 of the Delaware Law.

THIRD: That the name of the surviving corporation (the "Surviving Corporation") is "Acute Therapeutics, Inc."

→ FOURTH: That pursuant to the Merger Agreement, the Certificate of Incorporation of the Surviving Corporation is amended to read in its entirety as set forth in Exhibit A hereto. By virtue of such amendment, the name of the Surviving Corporation shall be "ATI Acquisition Corp."

FIFTH: That an executed copy of the Merger Agreement is on file at the principal place of business of the Surviving Corporation at the following address:

3359 Durham Road  
Doylestown, Pennsylvania 18901

SIXTH: That a copy of the Merger Agreement will be furnished by the Surviving Corporation, on request and without cost, to any stockholder of any Constituent Corporation.

SEVENTH: That the Merger shall become effective at 5:00 p.m. on the day of filing of this Certificate of Merger with the Secretary of State of the State of Delaware.

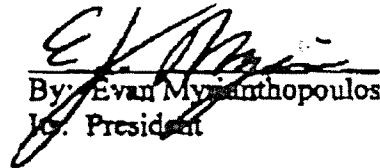
IN WITNESS WHEREOF, each of ATI and Acquisition Corp. has caused this Certificate of Merger to be executed in its corporate name this 16th day of June, 1998.

ACUTE THERAPEUTICS, INC.



By: Robert J. Capetola  
Its: Chief Executive Officer

ATI ACQUISITION CORP.



By: Evan Myrionthopoulos  
Its: President

TRADEMARK

REEL: 002885 FRAME: 0349

CERTIFICATE OF INCORPORATION  
OF  
ATI ACQUISITION CORP.

FIRST: The name of the corporation is ATI Acquisition Corp. (the "Corporation").

SECOND: The address of the registered office of the Corporation in the State of Delaware is Corporation Trust Center, 1209 Orange Street, in the City of Wilmington, County of New Castle. The name of the registered agent of the Corporation at such address is The Corporation Trust Company.

THIRD: The purposes for which the Corporation is formed are to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of the State of Delaware.

FOURTH: The aggregate number of shares which the Corporation shall have authority to issue shall be 1,000 shares of Common Stock, par value \$.01 per share.

FIFTH: The name and mailing of the incorporator are as follows:

<u>Name</u>	<u>Address</u>
David L. Lopez	Roberts, Sheridan & Kotel, A Professional Corporation 12 East 49 <sup>th</sup> Street, 30 <sup>th</sup> Floor New York, NY 10017

SIXTH: For the management of the business and for the conduct of the affairs of the Corporation, and in further definition, limitation and regulation of the powers of the Corporation and of its directors and stockholders, it is further provided that:

(a) the number of directors of the Corporation shall be fixed by, or in the manner provided in, the By-laws of the Corporation;

(b) in furtherance and not in limitation of the powers conferred by the laws of the State of Delaware, the Board of Directors is expressly authorized and empowered to make, alter, amend or repeal the By-laws of the Corporation in any manner not inconsistent with the laws of the State of Delaware or this Certificate of Incorporation, subject to the power of the stockholders of the Corporation having voting power to alter, amend or repeal the By-laws of the Corporation made by the Board of Directors;

(c) in addition to the powers and authorities herein or by statute expressly conferred upon it, the Board of Directors may exercise all such powers and do all such acts and things as may be exercised or done by the Corporation, subject, nevertheless, to the provisions of the laws of the State of Delaware, of this Certificate of Incorporation and of the By-laws of the Corporation;

(d) any director or any officer elected or appointed by the stockholders or by the Board of Directors, or any Committee thereof, may be removed at any time by a unanimous consent of the stockholders or in such other manner as shall be provided in the By-laws of the Corporation; and

(e) unless and except to the extent that the By-laws of the Corporation shall so require, the election of directors of the Corporation need not be by written ballot.

(f) the management of the business and the conduct of the affairs of the Corporation shall be vested in its Board of Directors. The number of directors which shall constitute the whole Board of Directors shall be fixed by, or in the manner provided in, the By-laws. The phrase "whole Board" and the phrase "total number of directors" shall be deemed to have the same meaning, to wit, the total number of directors which the Corporation would have if there were no vacancies. No election of directors need be by written ballot.

(g) after the original or other By-laws of the Corporation have been adopted, amended, or repealed, as the case may be, in accordance with the provisions of § 109 of the General Corporation Law of the State of Delaware, and, after the Corporation has received any payment for any of its stock, the power to adopt, amend, or repeal the By-laws of the Corporation may be exercised by the Stockholders of the Corporation; provided, however, that any provision for the classification of directors of the Corporation for staggered terms pursuant to the provisions of subsection (d) of § 141 of the General Corporation Law of the State of Delaware shall be set forth in an initial By-law or in a By-law adopted by the stockholders entitled to vote of the Corporation unless provisions for such classification shall be set forth in this Certificate of Incorporation.

SEVENTH: No director shall be personally liable to the Corporation or its stockholders for monetary damages for any breach of fiduciary duty by such director as a director. Notwithstanding the foregoing, a director shall be liable to the extent provided by applicable law, (i) for breach of the director's duty of loyalty to the Corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) pursuant to Section 174 of the Delaware General Corporation Law or (iv) for any transaction from which the director derived an improper personal benefit. No amendment to or repeal of this Article Seventh shall apply to or have any effect on the liability or alleged liability of any director of the Corporation for or with respect to any acts or omissions of such director occurring prior to such amendment.

EIGHTH: Whenever a compromise or arrangement is proposed between the Corporation and its creditors or any class of them and/or between the Corporation and its

stockholders or any class of them, any court of equitable jurisdiction within the State of Delaware may, on the application in a summary way of the Corporation or of any creditor or stockholder thereof or on the application of any receiver or receivers appointed for the Corporation under the provisions of Section 291 of Title 8 of the Delaware Code or on the application of trustees in dissolution or of any receiver or receivers appointed for the Corporation under the provisions of Section 279 of Title 8 of the Delaware Code order a meeting of the creditors or class of creditors, and/or or the stockholders or class of stockholders of the Corporation, as the case may be, to be summoned in such manner as the said court directs. If a majority in number representing three-fourths in value of the creditors or class of creditors, and/or of the stockholders or class of stockholders of the Corporation, as the case may be, agree to any compromise or arrangement and to any reorganization of the Corporation as consequence of such compromise or arrangement, the said compromise or arrangement and the said reorganization shall, if sanctioned by the court to which the said application has been made, be binding on all the creditors or class of creditors, and/or on all the stockholders or class of stockholders, of the Corporation, as the case may be, and also on the Corporation.

NINTH: From time to time any of the provisions of this Certificate of Incorporation may be amended, altered, or repealed, and other provisions authorized by the laws of the State of Delaware at the time in force may be added or inserted in the manner and at the time prescribed by said laws, and all rights at any time conferred upon the stockholders of the Corporation by this Certificate of Incorporation are granted subject to the provisions of this Article NINTH.