

**TRADEMARK ASSIGNMENT**

Electronic Version v1.1  
 Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT
NATURE OF CONVEYANCE:	MERGER
EFFECTIVE DATE:	07/31/2006

**CONVEYING PARTY DATA**

Name	Formerly	Execution Date	Entity Type
Ovation Pharmaceuticals, LLC		07/31/2006	LIMITED LIABILITY COMPANY: DELAWARE

**RECEIVING PARTY DATA**

Name:	Ovation Pharmaceuticals, Inc.
Street Address:	Four Parkway North
Internal Address:	Suite 200
City:	Deerfield
State/Country:	ILLINOIS
Postal Code:	60015
Entity Type:	CORPORATION: ILLINOIS

**PROPERTY NUMBERS Total: 3**

Property Type	Number	Word Mark
Registration Number:	0759115	COSMEGEN
Registration Number:	0566271	MUSTARGEN
Registration Number:	0920555	ELSPAR

**CORRESPONDENCE DATA**

Fax Number: (202)339-6052  
*Correspondence will be sent via US Mail when the fax attempt is unsuccessful.*  
 Phone: 202-625-3500  
 Email: valerie.purdy@kattenlaw.com  
 Correspondent Name: Roger P. Furey  
 Address Line 1: 1025 Thomas Jefferson Street, N.W.  
 Address Line 2: Suite 700 - East Lobby  
 Address Line 4: Washington, DISTRICT OF COLUMBIA 20007-5201

CH \$90.00 0759115

ATTORNEY DOCKET NUMBER:	213229.00013
NAME OF SUBMITTER:	Roger P. Furey
Signature:	/roger p. furey/
Date:	11/04/2006

**Total Attachments: 8**

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FORM **BCA 11.39** (rev. Dec. 2003)  
**ARTICLES OF MERGER,  
 BETWEEN ILLINOIS CORPORATIONS  
 AND LIMITED LIABILITY COMPANIES**  
 Business Corporation Act

Jesse White, Secretary of State  
 Department of Business Services  
 Springfield, IL 62756  
 Telephone (217) 782-6961  
 www.cyberdriveillinois.com

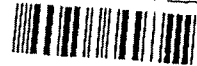
Remit payment in the form of a  
 check or money order payable  
 to the Secretary of State.

The filing fee is \$100, but if merger  
 involves more than 2 corporations,  
 \$50 for each additional corporation.

**FILED**

**JUL 31 2006**

**JESSE WHITE  
 SECRETARY OF STATE**



CP0397973

File # 6022-734-2 Filing Fee: \$ 100.00 Approved: lt

Submit in duplicate Type or Print clearly in black ink Do not write above this line

1. Names of the corporations and limited liability companies proposing to merge and the state or country of their organization or incorporation:

Name of Corporation Limited Liability Company	State or Country of Organization/Incorporation	Corporation File Number
<u>Ovation Pharmaceuticals, LLC</u>	<u>Delaware</u>	<u>01551299</u>
<u>Ovation Pharmaceuticals, Inc. (survivor)</u>	<u>Illinois</u>	<u>61227342</u>

2. The laws of the state or country under which each corporation and Limited Liability Company are organized, permit such merger.

3. (a) Name of the surviving party: Ovation Pharmaceuticals, Inc.  
 (b) it shall be governed by the laws of: Illinois

If not sufficient space to cover this point, add one or more sheets of this size.

4. Plan of merger is as follows:  
 See attached

**PAID**

**AUG 04 2006**

**EXPEDITED  
 SECRETARY OF STATE**

**TRADEMARK  
 REEL: 003421 FRAME: 0975**

5. Plan of merger was approved, as to each limited liability company, in compliance with the laws of the state under which it is organized, and (b) as to each Illinois corporation, as follows:

*(Only "X" one box for each Illinois corporation)*

By the shareholders, a resolution of the board of directors having been duly adopted and submitted to a vote at a meeting of shareholders. Not less than the minimum number of votes required by statute and by the articles of incorporation voted in favor of the action taken.

(§ 11.20)

By written consent of the shareholders having not less than the minimum number of votes required by statute and by the articles of incorporation. Shareholders who have not consented in writing have been given notice in accordance with § 7.10 (§ 11.20)

By written consent of ALL the shareholders entitled to vote on the action, in accordance with § 7.10 & § 11.20

Name of Corporation

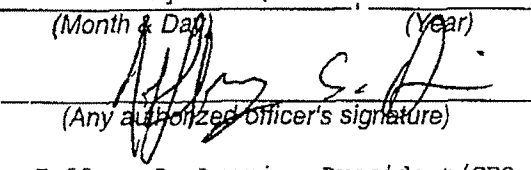
<u>Ovation Pharmaceuticals, Inc.</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>*Pursuant to Section 11.20(c),</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>a vote by shareholder is not</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>required, consent of the Board</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>was obtained.</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

6. *(Not applicable if survivor is an Illinois corporation or an Illinois Limited Liability Company)*

It is agreed that, upon and after the issuance of a certificate of merger by the Secretary of State of the State of Illinois:

- a. The surviving limited liability company may be served with process in the State of Illinois in any proceeding for the enforcement of any obligation of any corporation organized under the laws of the State of Illinois which is a party to the merger and in any proceeding for the enforcement of the rights of a dissenting shareholder of any such corporation organized under the laws of the State of Illinois against the surviving limited liability company.
- b. The Secretary of State of the State of Illinois shall be and hereby is irrevocably appointed as the agent of the surviving limited liability company to accept service of process in any such proceedings, and
- c. The surviving limited liability company will promptly pay to the dissenting shareholders of any corporation organized under the laws of the State of Illinois which is a party to the merger the amount, if any, to which they shall be entitled under the provisions of "The Business Corporation Act of 1983" of the State of Illinois with respect to the rights of dissenting shareholders.

7.(a.) The undersigned corporations have caused these articles to be signed by their duly authorized officers, each of whom affirms, under penalties of perjury, that the facts stated herein are true. (All signatures must be in **BLACK INK.**)

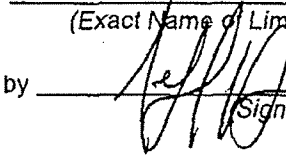
Dated July 31, 2006  
(Month & Day) (Year)  
  
(Any authorized officer's signature)  
Jeffrey S. Aronin, President/CEO  
(Type or Print Name and Title)

Ovation Pharmaceuticals, Inc.  
(Exact Name of Corporation)

Dated \_\_\_\_\_, \_\_\_\_\_  
(Month & Day) (Year)  
\_\_\_\_\_  
(Any authorized officer's signature)  
\_\_\_\_\_  
(Type or Print Name and Title)

\_\_\_\_\_  
(Exact Name of Corporation)

7.(b.) The undersigned limited liability companies have caused these articles to be signed by their duly authorized person, who affirms, under penalties of perjury, that the facts stated herein are true. (All signatures must be in **BLACK INK.**)

Dated July 31, 2006  
(Month & Day) (Year)  
  
(Signature)  
Jeffrey S. Aronin, Manager  
(Type or Print Name and Title)

Ovation Pharmaceuticals, LLC  
(Exact Name of Limited Liability Company)

Dated \_\_\_\_\_, \_\_\_\_\_  
(Month & Day) (Year)

\_\_\_\_\_  
(Exact Name of Limited Liability Company)

by \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Type or Print Name and Title)

## AGREEMENT AND PLAN OF MERGER

This Agreement and Plan of Merger ("Agreement") is made as of July 31, 2006 by and between Ovation Pharmaceuticals, LLC, a Delaware limited liability company (the "Terminating Entity"), and Ovation Pharmaceuticals, Inc., an Illinois corporation (the "Surviving Entity," and together with the Terminating Entity, the "Constituent Entities").

### RECITALS:

A. The merger is intended to qualify as a reorganization pursuant to Section 368(a) of the Internal Revenue Code of 1986, as amended.

B. The Terminating Entity is a limited liability company duly organized and existing under the law of the State of Delaware, and the Surviving Entity is a corporation duly organized and existing under the law of the State of Illinois. The Terminating Entity is a wholly-owned subsidiary of the Surviving Entity.

C. The Surviving Entity has an authorized capitalization consisting of (i) 275,000,000 common shares with \$0.001 value per share, of which 110,471,756.10 shares are issued and outstanding and (ii) 145,000 Cumulative Redeemable Preferred Stock with \$0.01 par value per share of which 41,899.77 shares are issued and outstanding.

D. All of the Terminating Entity's membership interests are wholly owned by the Surviving Entity.

E. The respective Board of Directors of the Surviving Entity and the Sole Member of the Terminating Entity has determined that it is advisable that the Terminating Entity should be merged with and into the Surviving Entity on the terms and conditions hereinafter set forth:

### AGREEMENT:

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties hereby agree as follows:

#### ARTICLE I

1.1 On the "Effective Date" (defined in Section 1.2), the Terminating Entity shall be merged with and into the Surviving Entity (such Merger being herein referred to as the "Merger"). Upon effectiveness of the Merger, the separate existence of the Terminating Entity shall cease pursuant to the Delaware General Corporation Law ("DGCL") and the Surviving Entity shall continue unaffected and unimpaired by the Merger, with all the rights, privileges, immunities and powers and subject to all the duties and liabilities of a corporation organized under the Business Corporation Act of the State of Illinois ("BCA").

1.2 The Merger shall become effective as of 11:59 p.m. July 31, 2006 (the "Effective Date").

## ARTICLE II

2.1 The Articles of Incorporation of the Surviving Entity in effect immediately prior to the Effective Date shall be its Articles of Incorporation after giving effect to the Merger. Such Articles of Incorporation of the Surviving Entity shall continue to be its Articles of Incorporation until the same shall be further altered or amended.

2.2 The By-Laws of the Surviving Entity in effect immediately prior to the Effective Date shall be and remain the By-Laws of the Surviving Entity after giving effect to the Merger until the same shall be altered, amended and repealed.

2.3 The directors and officers of the Surviving Entity in office on the Effective Date shall continue in office and shall constitute the directors and officers of the Surviving Entity after giving effect to the Merger for the term elected until their respective successors shall be elected or appointed and shall have been duly qualified.

## ARTICLE III

3.1 Immediately upon the Effective Date, without limiting the force and effect of any applicable provisions of the DGCL and the BCA with respect to the legal effect of the Merger, all the real and personal property, rights and interest, privileges, franchises, patents, trade secrets and confidential information, trademarks, licenses, registrations and all other legal rights and assets of every kind and description of the Terminating Entity, whether tangible or intangible shall be automatically transferred to, vested in and devolve upon the Surviving Entity without further act or deed; and all property, rights and every other interest of the Surviving Entity and the Terminating Entity shall be as effectively the property of the Surviving Entity as they theretofore were of the Surviving Entity and the Terminating Entity, respectively. The Terminating Entity and any managers and officers hereby agree from time to time as and when requested by the Surviving Entity or by its successors or assigns to execute and deliver or cause to be executed and delivered all such deeds and instruments and to take or cause to be taken such further actions as the Surviving Entity may deem necessary or desirable in order to vest in and confirm to the Surviving Entity, title to and possession of any and all property of such Terminating Entity and otherwise to carry out all the intents and purposes hereof. The proper officers and directors of the Constituent Entities are hereby fully authorized in the name and on behalf of the Constituent Entities, respectively, to take any and all such actions.

3.2 Immediately upon the Effective Date, without limiting the force and effect of any applicable provisions of the DGCL and the BCA with respect to the legal effect of the Merger, all of the contracts and agreements to which the Terminating Entity is a party shall be automatically assumed by the Surviving Entity.

3.3 Each of the Constituent Entities hereby represents and warrants that it is not a party, jointly or severally, to any contract or agreement the terms of which would be violated or breached by it upon execution and consummation of this Agreement and that this Agreement is enforceable against each of the Constituent Entities in accordance with its terms.

3.4 The Surviving Entity shall be responsible and liable for all liabilities and obligations of each of the Constituent Entities, and any claim existing or action or proceeding

pending by or against either of the Constituent Entities may be prosecuted to judgment as if the Merger had not taken place, or Surviving Entity may be substituted in the place of the Terminating Entity, and neither the rights of creditors nor any liens upon the property of either of the Constituent Entities shall be impaired by the Merger. Surviving Entity shall execute and deliver any and all documents which may be required for it to assume or otherwise comply with outstanding obligations of the Terminating Entity.

#### ARTICLE IV

The manner and basis of converting the shares of capital stock of the Terminating Entity into shares of stock of the Surviving Entity shall be as follows:

4.1 Each issued and outstanding share of stock of the Surviving Entity, issued and outstanding immediately prior to the Effective Date shall remain, without any action on the part of the holder thereof, a fully paid and non-assessable share of the capital stock of the Surviving Entity.

4.2 Each issued and outstanding membership unit of the Terminating Entity, issued and outstanding immediately prior to the Effective Date shall be canceled on the Effective Date, without any action on the part of the holder thereof and no payment shall be made with respect thereto.

#### ARTICLE V

The Surviving Entity shall pay all expenses incurred in connection with the Merger.

#### ARTICLE VI

Each of the Constituent Entities shall take or cause to be taken all actions or do or cause to be done all things necessary, proper or advisable under the laws of the State of Delaware and the State of Illinois to consummate and make effective the Merger, subject however to the appropriate consent of the members, directors or stockholders, as applicable, of each of the Constituent Entities in accordance with the requirements of the applicable provisions of the laws of the State of Delaware and the State of Illinois.

#### ARTICLE VII

This Agreement of Merger shall be binding upon and inure to the benefit of all of the parties hereto and their respective successors in interest.

#### ARTICLE VIII

Notwithstanding anything herein to the contrary, this Agreement may be terminated and abandoned by the Board of Directors of either of the Constituent Entities at any time prior to the date of filing the required Certificate of Merger and Articles of Merger.

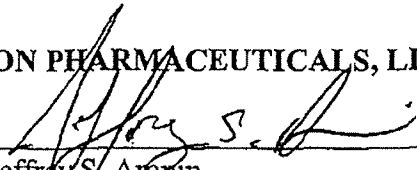


The Board of Directors of the Surviving Entity may amend modify and supplement this Agreement in such a manner as it may determine at any time before or after approval and adoption hereof by the members, directors or stockholders, as applicable, of the Constituent Entities; provided, however, that after favorable action by the stockholders of the Surviving Entity no such amendment, modification or supplement shall affect the rights of such stockholders in any manner which is materially adverse to such stockholders in the judgment of the Board of Directors.

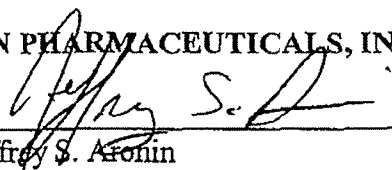
[remainder of page intentionally left blank,  
signature page to follow]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

**OVATION PHARMACEUTICALS, LLC**

By:   
Name: Jeffrey S. Aronin  
Title: Manager

**OVATION PHARMACEUTICALS, INC.**

By:   
Name: Jeffrey S. Aronin  
Title: President

60478344.1

