

## **MedPointe Enforces Patent Surrounding Cough-Cold Product**

### *COMPANY VIGOROUSLY DEFENDS ITS TUSSI-12<sup>®</sup>D TABLETS AND TUSSI-12<sup>®</sup>DS SUSPENSION*

*Somerset, NJ - November 22, 2004* - MedPointe Pharmaceuticals responded today to recent developments concerning its continued efforts to enforce its intellectual property rights covering its TUSSI-12<sup>®</sup>D product line.

MedPointe's TUSSI-12<sup>®</sup>D brand products are covered by U.S. Patent No. 6,417,206 ("the '206 patent"). MedPointe has previously successfully enforced this patent against certain manufacturers to prevent infringement, obtaining consent orders and preliminary injunctions from the U.S. District Court for the District of New Jersey that prevent these parties from offering to sell or selling generic versions of MedPointe's patented TUSSI-12<sup>®</sup>D products.

Although a panel of an appellate court on November 17, 2004 issued an opinion that the preliminary injunction against Hi-Tech Pharmaco Co., Inc., Amityville, NY, should be vacated, MedPointe believes that the preliminary injunction remains in full force and effect, unless and until the appellate court issues a mandate vacating it. Among other things, the preliminary injunction prevents Hi-Tech Pharmaco Co., Inc. from shipping, manufacturing, having manufactured, offering to sell, selling, or importing into the U.S. Tannate 12 D S, a generic version of MedPointe's TUSSI-12<sup>®</sup>DS brand suspension product.

On November 19, 2004, Hi-Tech Pharmaco Co., Inc. issued a press release stating that it "plans to begin shipments of its Tannate 12 D S cough and cold product in the near future" but that it "may still be subject to liability based on a claim of patent infringement for sales of Tannate 12 D S." MedPointe believes that Hi-Tech Pharmaco Co., Inc. remains bound by the preliminary injunction and may not ship, manufacture, have manufactured, offer to sell, sell, or import into the U.S. Tannate 12 D S, unless and until the District Court, acting on a mandate by the appellate court, lifts that injunction.

MedPointe believes that the panel opinion of the appellate court is in error, and agrees with the Chief Judge of the appellate court, who dissented from the panel opinion. MedPointe intends to petition for a rehearing to overturn the opinion and prevent the issuance of any mandate vacating the injunction.

MedPointe notes that even if the preliminary injunction is lifted, the panel of the appellate court stated that its decision "in no way resolves the ultimate question of validity" of MedPointe's '206 patent.

## **MEDPOINTE PHARMACEUTICALS**

MedPointe Pharmaceuticals is a privately held, specialty pharmaceutical company located at 265 Davidson Avenue, Somerset, New Jersey, 08873-4120; 732-564-2200. MedPointe specializes in respiratory, allergy, central nervous system, cough-cold, and pediatric products. The company maintains a manufacturing facility in Decatur, Illinois. For more information on MedPointe, visit [www.medpointepharma.com](http://www.medpointepharma.com).

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