

FREEDOM TO OPERATE

15 East Putnam Avenue,
Suite #413
Greenwich, CT 06830

April 12, 2022

Mr. George Goldsmith
Chairman, Chief Executive Officer, and Co-Founder
COMPASS Pathways plc
3rd Floor
1 Ashley Road
Altrincham
Cheshire WA14 2DT
United Kingdom

Re: U.S. Patent No. 11,149,044

Dear George:

I write regarding Compass Pathfinder Limited's ("Compass") U.S. Patent No. 11,149,044 (the "'044 Patent"), which is directed to crystalline "Hydrate A" of psilocybin, as well as a pharmaceutical composition containing "Hydrate A" and a method of treating major depressive disorder by administering "Hydrate A." This letter serves to put Compass on notice that Freedom to Operate, Inc. ("FTO") believes the '044 Patent to be invalid as claiming a known form of crystalline psilocybin that was publicly used prior to the '044 Patent's priority date. We ask that Compass disclaim this patent, or at a minimum issue a Covenant Not To Sue in the form attached as Exhibit A.

FTO is a non-profit corporation organized to advance science and education and specifically to support and facilitate scientific research in the public interest and for public benefit. One of FTO's missions is to ensure that scientific knowledge and developments that enter the public domain remain publicly available. Presently, FTO is focused on ensuring that publicly available research and developments concerning psilocybin, and its use as a treatment for a variety of conditions for which conventional medical treatments have not been effective, remain in the public domain.

As you are aware, FTO underwrote groundbreaking research that enabled the quantification of particular polymorphic forms of crystalline psilocybin present in historical samples. The results of that research are reported in *Psilocybin: crystal structure solutions enable phase analysis of prior art and recently patented examples*, Acta Cryst. (2022), C78, 36-55, a copy of which is enclosed for your convenience. The paper demonstrates that the '044 Patent's claimed Hydrate A was available as early as 1963 and was used in human clinical trials as early as 2017.

In particular, the authors were able to isolate single crystals of Hydrate A from which they derived the compound's chemical structure which, in turn, they used to generate a diffractogram displaying the peaks claimed in the '044 Patent (i.e., 8.9 ± 0.1 , 13.8 ± 0.1 , 19.4 ± 0.1 , 23.1 ± 0.1 and $23.5\pm 0.1^\circ 2\theta$). *See* Article at 37(Fig. 1), 38-39. Using that data, the authors were able to quantify the amount of Hydrate A present in historical samples, including a sample manufactured in 1963 and a sample manufactured in 1976, each of which contained 100% Hydrate A. *Id.* at 39, 47-48. A third sample, also composed entirely of Hydrate A, was used by research universities in support of human clinical trials as early as 2017. *Id.* at 35, 47-48.

In light of the foregoing, I trust that you will agree that there can be no valid claim to so-called "Hydrate A" of crystalline psilocybin, or its use to treat medical conditions such as depression. I therefore ask that Compass disclaim the '044 Patent or, at a minimum, publicly covenant that it will not attempt to enforce any claim of the '044 patent, using the form attached as Exhibit A.

I thank you for your consideration of the issues raised in this letter and request your response by April 19, 2022.

Sincerely,

Carey Turnbull
Founder and Director,
Freedom to Operate, Inc.

Enclosure

Psilocybin: crystal structure solutions enable phase analysis of prior art and recently patented examples, *Acta Cryst.* (2022), C78, 36-55

EXHIBIT A

COMPASS PATHFINDER LTD.

COVENANT NOT TO SUE ON PSILOCYBIN HYDRATE A PATENTS

To the Psilocybin Therapeutic Community:

Compass Pathfinder Ltd. (“Compass”) recognizes the value of permitting the public to research, manufacture, distribute and use psilocybin for a wide variety of therapeutic purposes. Compass has filed for and obtained patents that includes claims to polymorphic forms of psilocybin, including U.S. Patent U.S. Patent No. 11,149,044 directed to a polymorphic form described and claimed as Hydrate A in that patent. (the “Hydrate A Patent”). Compass wishes to publicly confirm that it will not enforce any claim in the Hydrate A Patent, or any other patents that it owns or controls in the future that are directed to Hydrate A or include Hydrate A as a required element of the claims (the “Released Patents”). To the extent that Compass has made statements to its investors and others suggesting that it would enforce patents directed to a Hydrate A, it hereby repudiates those statements and issues this new statement of corporate purpose and intention.

Compass irrevocably covenants that at no time will it, its successors or its assigns, directly or indirectly, alone or by, with, or through others, cause, induce, or authorize, or voluntarily assist, participate, or cooperate in the commencement, maintenance, or

prosecution of any action or proceeding in, of, or before any court or government agency against any person or entity asserting that any psilocybin pharmaceutical dosage form manufactured, used, offered for sale, sold, imported, or otherwise transferred in, through or out of the United States or another country directly or indirectly infringes of any claim of the Released Patents.

Compass makes this Covenant Not To Sue On Psilocybin Hydrate A Patents publicly and intending that any person or entity can and will rely on it in their efforts to seek regulatory approval of the manufacture and sale of medical treatments using psilocybin.

Date: _____, 2022

COMPASS PATHWAYS LTD.

George Goldsmith

Executive Chairman, Chief Executive Officer &
Co-Founder at Compass Pathfinder Ltd and
COMPASS Pathways plc