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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MYLAN PHARMACEUTICALS INC.,

v.

Petitioner,

ANACOR PHARMACEUTICALS, INC., Patent Owner.

U.S. Patent No. 9,566,290 to Baker *et al.* Ser. No. 15/134,286, filed April 20, 2016 Issue Date: February 14, 2017

Title: BORON-CONTAINING SMALL MOLECULES

Inter Partes Review No. 2018-01360

PETITION FOR INTER PARTES REVIEW OF U.S. PATENT NO. 9,566,290 UNDER 35 U.S.C. §§ 311-319 AND 37 C.F.R. §§ 42.100 et. seq.



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TABLE OF AUTHORITIES

CASES

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