

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

OCULAR THERAPEUTIX, INC.
Petitioner,

v.

MATI THERAPEUTICS INC.
Patent Owner.

Case: IPR No. 2019-00442
Patent No. 9,463,114

PATENT OWNER PRELIMINARY RESPONSE

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Pursuant to 37 C.F.R. § 42.107, Patent Owner, Mati Therapeutics Inc. (“Patent Owner” or “Mati”), submits this Preliminary Response to the petition (“Petition” or “Pet.”) for *inter partes* review (“IPR”) filed by Ocular Therapeutix, Inc. (“Petitioner”) challenging claims 1, 3, 5-8, 10, and 12-14 of U.S. Patent 9,463,114 to Odrich et al. (“Odrich Patent”). For the reasons set forth herein, the Petition for IPR should be denied in its entirety.

I. INTRODUCTION

On its face, Petitioner’s submission fails to provide the Board with the basic evidence and analysis required to institute any IPR. If the Board nonetheless institutes trial on any of the challenged claims, then, pursuant to 37 C.F.R. § 42.120, Mati will address, in its patent owner’s response, the numerous substantive errors and shortcomings that underlie each of Petitioner’s arguments and its purported evidence.

In this preliminary response, however, Mati addresses fundamental shortcomings of the Petition, including that (i) Petitioner has failed to satisfy its burden by offering a faulty anticipation analysis based on the allegedly anticipatory reference, Schmitt, (ii) Petitioner has failed to satisfy its burden by offering a faulty obviousness analysis and failing to address the Graham factors; (iii) Petitioner improperly relies on an unreasonable claim construction, and without such claim construction, Petitioner’s primary reference, Schmitt, lacks a material limitation in

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