UNITED STATES PATENT AND TRADEMARK OFFICE _____

BEFORE THE PATENT TRIAL AND APPEAL BOARD

OCULAR THERAPEUTIX, INC.
Petitioner

v.

MATI THERAPEUTICS INC.
Patent Owner

US Patent No. 9,849,082

Inter Partes Review No. IPR2019-00448

PETITION FOR INTER PARTES REVIEW OF US PATENT NO. 9,849,082 UNDER 35 USC §§ 311-319 AND CFR § 42.100, et. seq.



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KSR International Co. v. Teleflex Inc., 550 U.S. 398 (2007)	15
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