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Filed on behalf of Akorn Inc.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

AKORN INC.

Petitioner

v.

ALLERGAN, INC.

Patent Owner

Case No. IPR2017-00598

Patent No. 8,642,556

**PETITION FOR INTER PARTES REVIEW OF
U.S. PATENT NO. 8,642,556**

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I. INTRODUCTION

On December 8, 2016, the Board instituted IPR2016-01129, stating that there was a reasonable likelihood that claims 1-20 of U.S. Patent No. 8,642,556 to Acheampong *et al.* (“the ’556 patent,” EX1001) are unpatentable based on “the information presented in the Petition and in the Preliminary Response.” *Mylan Pharm., Inc. v. Allergan, Inc.*, IPR2016-01129, slip op. at 24-25 (PTAB December 8, 2016) (Paper 8). The present Petition presents the same grounds of unpatentability and the same arguments and evidence as the Petition in IPR2016-01129. The present Petitioner has received permission from Mylan Pharmaceuticals, Inc., the petitioner in IPR2016-01129, to rely upon the same expert. The present Petition is substantially identical to the Petition filed in IPR2016-01129. Accordingly, it is believed that the present Petition should be granted for the same reasons that the Board instituted IPR2016-01129.

In particular, Akorn Inc. (“Petitioner”) requests review of the ’556 patent that issued on February 4, 2014. PTO records indicate the ’556 patent is assigned to Allergan, Inc. (“Patent Owner”). This Petition demonstrates that there is a reasonable likelihood that claims 1-20 of the ’556 patent are unpatentable for failure to distinguish over the asserted prior art. Additional petitions are being filed to address related patents that are assigned to Patent Owner. All challenged patents are continuations from the same family and are terminally disclaimed over

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