

Case IPR2017-00905

Declaration of Diane J. Burgess, Ph.D. Under 37 C.F.R. § 1.68 in Support of
Petition for *Inter Partes* Review of U.S. Patent No. 8,466,139

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

INNOPHARMA LICENSING, LLC,
Petitioner

v.

ASTRAZENECA AB,
Patent Owner

Case IPR2017-00905
Patent No. 8,466,139

DECLARATION OF DIANE J. BURGESS, Ph.D., UNDER 37 C.F.R. § 1.68
IN SUPPORT OF PETITION FOR *INTER PARTES* REVIEW OF U.S.
PATENT NO. 8,466,139

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I, Diane J. Burgess, Ph.D. hereby declare as follows:

I. INTRODUCTION

1. I have been retained as an expert witness on behalf of InnoPharma, LLC (“InnoPharma”) for the above-captioned Petition for *Inter Partes* Review (“IPR”) of U.S. Patent No. 8,466,139 (“the ’139 patent” or “the patent”).

2. I have been asked to provide my opinions on the validity of claims 1, 3, 10, 11, 13, and 20 of the ’139 patent (“the challenged claims”).

3. In preparing this Declaration, I have reviewed the ’139 patent, the file history of the ’139 patent, and the file histories of the following related patents: U.S. Patent Nos. 6,774,122 (“the ’122 patent”), 7,456,160 (“the ’160 patent”), and 8,329,680 (“the ’680 patent”). I have also reviewed the petition for *inter partes review* of the ’139 patent filed by Mylan Pharmaceuticals, Inc. (IPR2016-01326) (“Mylan IPR”), the supporting declarations and exhibits, the Patent Owner’s Response to that Petition, the supporting declarations and exhibits, and the Board’s decision denying institution of *inter partes review* on the related ’680 patent (IPR2016-01325, paper 11). In addition, I have reviewed numerous prior art references that would have been available to one skilled in the art at and before the time of the alleged invention.

4. I have been advised and it is my understanding that patent claims in an IPR are given their broadest reasonable construction in view of the patent

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