

Filed on behalf of Petitioner FLATWING PHARMACEUTICALS, LLC

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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FlatWing Pharmaceuticals, LLC,

*Petitioner,*

v.

Anacor Pharmaceuticals, Inc.,

*Patent Owner.*

Case No.: 2018-00168

Patent No. 9,549,938

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**DECLARATION OF STEPHEN KAHL PH.D. IN SUPPORT OF PETITION  
FOR INTER PARTES REVIEW OF PATENT NO. 9,549,938**

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## **DECLARATION**

I, Stephen Kahl, Ph.D., hereby state the following:

### **I. INTRODUCTION**

1. In this declaration, I am providing my expert opinions in support of the above-captioned petition for inter partes review (“IPR”) of U.S. Patent No. 9,549,938 (“the ’938 Patent”) filed by petitioner (FlatWing Pharmaceuticals, LLC), which challenges the patentability of claims 1–6 of the ’938 Patent.

2. This Declaration sets forth the bases and reasons for my opinions.

3. This Declaration is based on information currently available to me. I reserve the right to continue my investigation and analysis, which may include a review of documents and information not yet produced. I further reserve the right to expand or otherwise modify my opinions and conclusions as my investigation and study continues, and to supplement my opinions and conclusions in response to any additional information that becomes available to me.

### **II. BACKGROUND AND EXPERIENCE**

4. I received a B.S. in Chemistry from Duke University (1964-68) and a Ph.D. in Chemistry from Indiana University (1968-72).

5. From 1972 until 1974, I was a Postdoctoral Fellow at the University of California, Berkeley in the Departments of Chemistry and Physics. From 1975 until 1982, I was an Assistant Professor at Wellesley College in the Department of

Chemistry. From 1982 until the present, I have held the following positions in the Department of Pharmaceutical Chemistry at the University of California, San Francisco: Visiting Assistant Professor (1982–1985); Assistant Professor In Residence (1985–1990); Associate Professor In Residence (1990–1995); Professor in Residence (1995–2011); and Professor In Residence Emeritus (2011–Present). I also served as Vice Chair of the UCSF Department of Pharmaceutical Chemistry from 1993 to 2013. From 1983 to 2015, I held the title of Visiting Professor (Lecturer) in the Department of Chemistry at Stanford University.

6. I have received numerous honors and awards, including the Dean’s Recognition for Excellence in Teaching, University of California School of Pharmacy on nine different occasions since its inception in 2005.

7. I have also served as an Ad Hoc Reviewer for twenty journals including: Journal of Medicinal Chemistry (1985–Present); Journal of Organic Chemistry (1991–Present); Cancer Research (1989–Present); Proceedings of the National Academy of Sciences, USA (1990–Present); and Journal of American Chemical Society (1986–Present).

8. My research interests over my career have related to the development of organic synthetic methodologies and separation techniques for the preparation of bioactive boron molecules specifically targeted to biological systems, e.g. cancer cells, atherosclerotic plaques, and viral and parasitic vectors, and the application of

methods to assess the toxicology and gross and subcellular biodistribution of these molecules. To date, my research has resulted in over 65 publications in books and peer reviewed journals; and over 30 invited presentations.

9. My CV, which lists in further detail my relevant professional experience, is attached as Exhibit 1004.

10. I am informed that in proceedings on patents in the same patent family claiming priority to the same disclosure, the Board determined that I was “qualified to testify as to the knowledge of a person of ordinary skill in the art in this proceeding.” *Coalition for Affordable Drugs X LLC v. Anacor Pharmaceuticals, Inc.*, IPR2015-01780, Paper 70 at 11 (P.T.A.B. Feb. 23, 2017).

### **III. COMPENSATION AND RELATIONSHIP TO THE PARTIES**

11. I am being compensated at my standard consulting rate of \$500 per hour for the time I spend studying materials and issues associated with this matter and \$750 per hour for the time I spend providing testimony. My compensation is not contingent upon the outcome of this matter. I expect to be reimbursed for reasonable expenses associated with travel, including lodging, transportation, and other expenses incurred in connection with this matter.

12. It is my understanding that Anacor Pharmaceuticals Inc. (“Anacor”) is the assignee of the ’938 Patent. Prior to this matter, I have not worked for Anacor or had any vested interest in the Petitioner or its related entities. I own no stock or

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