#### UNITED STATES PATENT AND TRADEMARK OFFICE

#### BEFORE THE PATENT TRIAL AND APPEAL BOARD

MODERNA THERAPEUTICS, INC., Petitioner,

v.

ARBUTUS BIOPHARMA CORPORATION, Patent Owner.

> Case IPR2019-00554 Patent No. 8,058,069

## DECLARATION OF DAVID H. THOMPSON, PH. D.

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	IX. X.	SUPH A. B. C. IX. THE ANT A. B. X. GRO A. B. XI. B. XI. THE UNP A. B. C.	<ul> <li>Formulations within the Claimed Range.</li> <li>2. Post-Filing Publications Provide Testing Data for a Broad Range of Lipids and Cargo Molecules.</li> <li>VIII. THE PATENTABILITY OF THE CLAIMS ARE FURTHER SUPPORTED BY OTHER OBJECTIVE INDICIA.</li> <li>A. Long-Felt Need – the delivery problem was not solved for over 20 years.</li> <li>B. Skepticism – those in the art questioned the safety of the SNALP as a suitable delivery platform.</li> <li>C. Commercial Success – the claimed nucleic acid-lipid particle is the first FDA approved siRNA drug.</li> <li>IX. THE PETITION FAILS TO SHOW THE CLAIMS ARE ANTICIPATED.</li> <li>A. Ground 1—Neither the '196 PCT or the '189 Publication Anticipate the Claimed Ranges.</li> <li>B. Ground 3—The '554 Publication Is Not Anticipatory.</li> <li>X. GROUND 2 FAILS.</li> <li>A. Lin and Ahmad Do Not Supply the Missing Motivation for Ground 2.</li> <li>B. Petitioner Ignores Content of Lin and Ahmad</li> <li>XI. THE DEPENDENT CLAIMS HAVE NOT BEEN SHOWN TO BE UNPATENTABLE IN ANY OF THE GROUNDS OF CHALLENGE.</li> <li>A. Claim 8</li> <li>B. Claim 14</li> <li>C. Claim 15</li> </ul>	

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I, David H. Thompson, declare as follows:

#### I. QUALIFICATIONS

1. I am a Professor of Chemistry at Purdue University and Director of the Medicinal Chemistry Group in the Purdue Center for Cancer Research. My primary research interests include development of transiently-stable carrier systems for drug and nucleic acid delivery.

I received my Ph.D. in Organic Chemistry from Colorado State
 University in 1984. I also hold a Bachelor of the Arts in Biology and a Bachelor of
 Science in Chemistry from the University of Missouri, Columbia.

3. I have been a visiting professor at numerous institutions including, Chulalongkorn University, Department of Pharmaceutics; Technical University of Denmark, Department of Micro & Nanotechnology; Japan Advanced Institute of Science & Technology, Department of Biomaterials; Osaka University, Department of Applied Chemistry; University of Florida, Department of Pharmaceutics; and University of British Columbia, Department of Biochemistry.

4. I am listed as a co-inventor on 7 United States patents. I have also published more than 149 peer reviewed scientific papers.

5. I have studied, taught, practiced, and conducted research involving the formulation, use, characterization, and delivery of lipid particles. I have expertise with the delivery of therapeutic agents using lipid particles.

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