

IN THE UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT

GENENTECH, INC.,

Appellant,

v.

HOSPIRA, INC.,

Appellee.

No. 2018-1933

**UNOPPOSED MOTION OF THE
UNITED STATES TO INTERVENE**

Pursuant to 28 U.S.C. § 2403(a), the United States respectfully moves to intervene in this appeal.

“In any action . . . in a court of the United States to which the United States . . . is not a party, wherein the constitutionality of any Act of Congress affecting the public interest is drawn into question, the court shall certify such fact to the Attorney General, and shall permit the United States to intervene . . . for argument on the question of constitutionality.” *See* 28 U.S.C. § 2403(a). Appellant notified the Court that the above-captioned appeal “question[s] the constitutionality of an Act of Congress.” *See* Fed. R. App. P. 44(a). In an order issued on August 24, 2018, the Court certified the fact of appellant’s constitutional challenge to the Attorney General and directed the Attorney

General to notify the Court within 30 days whether the United States intends to intervene.

The United States hereby moves to exercise its statutory right to intervene in this appeal under 28 U.S.C. § 2403(a) to defend the constitutionality of the Act of Congress that appellant challenges. Counsel for appellant does not oppose this motion.

Respectfully submitted,

SCOTT R. MCINTOSH

s/ Katherine Twomey Allen

KATHERINE TWOMEY ALLEN

(202) 514-5048

Attorneys

Civil Division, Appellate Staff

U.S. Department of Justice

950 Pennsylvania Ave., N.W., Rm. 7325

Washington, D.C. 20530

SEPTEMBER 2018

CERTIFICATE OF SERVICE

I hereby certify that on September 24, 2018, I electronically filed the foregoing with the Clerk of the Court by using the appellate CM/ECF system. I certify that the participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

s/ Katherine Twomey Allen
KATHERINE TWOMEY ALLEN

CERTIFICATE OF COMPLIANCE

Pursuant to Fed. R. App. P. 32(g), I hereby certify that this motion complies with the requirements of Fed. R. App. P. 27(d)(1)(E) because it has been prepared in 14-point Garamond font, a proportionally spaced font, and that it complies with the type-volume limitation of Fed. R. App. P. 27(d)(2)(A), because it contains 194 words, according to the count of Microsoft Word.

/s/ Katherine Twomey Allen
KATHERINE TWOMEY ALLEN