

NOTE: This order is nonprecedential.

**United States Court of Appeals  
for the Federal Circuit**

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**ARTHREX, INC.,**  
*Appellant*

v.

**SMITH & NEPHEW, INC., ARTHROCARE CORP.,**  
*Appellees*

**UNITED STATES,**  
*Intervenor*

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2018-2140

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Appeal from the United States Patent and Trademark Office, Patent Trial and Appeal Board in No. IPR2017-00275.

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Before MOORE, REYNA, and CHEN, *Circuit Judges*.

PER CURIAM.

**O R D E R**

IT IS ORDERED THAT:

The parties and the government shall file supplemental briefs of no more than 15 pages, double spaced, by October 29, 2019. No extensions will be granted. The briefs shall be limited to addressing the following question:

Should the Court conclude that there was an Appointments Clause violation, based on a conclusion that PTAB Judges are principal officers that are not properly appointed, but that a portion of the Patent Act may be severed and excised to cure the constitutional infirmity, should the case then be vacated and remanded for a new hearing before the Board pursuant to *Lucia v. SEC*, 138 S. Ct. 2044 (2018)?

FOR THE COURT

October 15, 2019  
Date

/s/ Peter R. Marksteiner  
Peter R. Marksteiner  
Clerk of Court