

No. 18-

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IN THE  
**Supreme Court of the United States**

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SAINT REGIS MOHAWK TRIBE AND ALLERGAN, INC.,

*Petitioners,*  
v.

MYLAN PHARMACEUTICALS, INC.,  
TEVA PHARMACEUTICALS USA, INC., AND  
AKORN, INC.,

*Respondents.*

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ON PETITION FOR WRIT OF CERTIORARI TO  
THE U.S. COURT OF APPEALS FOR THE FEDERAL CIRCUIT

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**PETITION FOR WRIT OF CERTIORARI**

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## QUESTION PRESENTED

This case involves the legal characterization of the *inter partes* review procedure for patents, created by the Leahy–Smith America Invents Act, Pub. L. No. 112-29, 125 Stat. 284 (2011). This Court has described *inter partes* review as a “procedure allow[ing] private parties to challenge previously issued patent claims in an adversarial process before the Patent Office that mimics civil litigation.” *SAS Inst. Inc. v. Iancu*, 138 S. Ct. 1348, 1352 (2018).

In this case, the Federal Circuit held that a federally recognized Indian tribe owning a patent could not assert tribal sovereign immunity in an *inter partes* review proceeding because the proceeding is “more like an agency enforcement action than a civil suit brought by a private party.” Pet. App. 9a.

The Question Presented is:

Whether *inter partes* review before the Patent Trial and Appeal Board is the type of proceeding in which tribal sovereign immunity may be asserted.

## **PARTIES TO THE PROCEEDING**

The caption to the case contains the names of all parties.

## **RULE 29.6 STATEMENT**

The Saint Regis Mohawk Tribe is a federally recognized Indian tribe.

Allergan plc is the parent company of Allergan, Inc. and owns more than 10% of its stock.

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