

NOTE: This order is nonprecedential.

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

SAINT REGIS MOHAWK TRIBE, ALLERGAN, INC.,
Appellants,

v.

**MYLAN PHARMACEUTICALS INC., TEVA
PHARMACEUTICALS USA, INC., AKORN, INC.,**
Appellees.

2018-1638, -1639, -1640, -1641, -1642, -1643

Appeals from the United States Patent and Trade-
mark Office, Patent Trial and Appeal Board in No.
IPR2016-01127, IPR2016-01128, IPR2016-01129,
IPR2016-01130, IPR2016-01131, IPR2016-01132,
IPR2017- 00599, IPR2017-00576, IPR2017-00578,
IPR2017-00579, IPR2017-00583, IPR2017-00585,
IPR2017-00586, IPR2017-00594, IPR2017-00596,
IPR2017-00598, IPR2017-00600, IPR2017-00601.

ON MOTION

PER CURIAM.

ORDER

2 SAINT REGIS MOHAWK TRIBE v. MYLAN PHARMACEUTICALS INC.

In this case, Saint Regis Mohawk Tribe notified the Patent Trial and Appeal Board that it had acquired the patents at issue in these *inter partes* reviews from Allergan, Inc. and moved to terminate all proceedings based on the Tribe's sovereign immunity. The Board rejected the Tribe's claim of sovereign immunity, found that the proceedings could continue against Allergan, and declined to stay proceedings. The Board has scheduled a final hearing for April 3, 2018. The Tribe and Allergan have appealed from the Board's rejection of the Tribe's sovereign immunity claim and motion to terminate proceedings and all issues raised therein, and have moved for this court to stay all proceedings before the Board pending their appeals. The appellees oppose the motion. This court *sua sponte* expedited briefing on the merits and scheduled oral argument for June 2018.

Upon consideration thereof,

IT IS ORDERED THAT:

Appellants' motion for a stay is granted until the day after oral argument in June 2018. At this juncture, it appears that the appeals divested the Board of jurisdiction over the aspects of the case on appeal, *see Griggs v. Provident Consumer Discount Co.*, 459 U.S. 56, 58 (1982); *Princz v. Fed. Republic of Ger.*, 998 F.2d 1 (D.C. Cir. 1993) (appeal from denial of motion to dismiss on grounds of sovereign immunity divests district court of jurisdiction over entire case); *Apostol v. Gallion*, 870 F.2d 1335 (7th Cir. 1989); *accord In re Graves*, 69 F.3d 1147, 1149 (Fed. Cir. 1995), and that exclusive jurisdiction to resolve the threshold issue of whether these proceedings must be terminated vests in this court, and that the Board may not proceed until granted leave by this court. The stay shall remain in effect until the day after oral argument in the appeals in June 2018. The court will address whether the stay shall remain in effect or whether it will be lifted

Case: 18-1638 Document: 42 Page: 3 Filed: 03/28/2018

SAINT REGIS MOHAWK TRIBE v. MYLAN PHARMACEUTICALS INC

at that time based on further consideration of the merits of the appeals.

FOR THE COURT

/s/ Peter R. Marksteiner

Peter R. Marksteiner
Clerk of Court

s19