Case: 18-1638 Document: 163 Page: 1 Filed: 09/07/2018 **2018-1638**, **2018-1639**, **2018-1640**, **2018-1641**, **2018-1642**, and **2018-1643**

In the United States Court of Appeals For the Federal Circuit

SAINT REGIS MOHAWK TRIBE, ALLERGAN, INC.,

Appellants,

v.

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

Appellees.

Appeals from: Patent and Trademark Office - Patent Trial and Appeal Board in *Inter Partes* Review Nos. IPR2016-01127, IPR2016-01128, IPR2016-01129, IPR2016-01130, IPR2016-01131, IPR2016-01132, IPR2017-00576, IPR2017-00578, IPR2017-00579, IPR2017-00583, IPR2017-00585, IPR2017-00586, IPR2017-00594, IPR2017-00596, IPR2017-00598, IPR2017-00599, IPR2017-00600, IPR2017-00601

BRIEF FOR AMICUS CURIAE
STC.UNM AND WILLIAM ESKRIDGE, JR. FOR
APPELLANTS SAINT REGIS MOHAWK TRIBE AND ALLERGAN, INC.

Rajkumar Vinnakota Glenn E. Janik JANIK VINNAKOTA LLP 8111 LBJ Freeway, Suite 790 Dallas, Texas kvinnakota@jvllp.com gjanik@jvllp.com Tel: (214) 390-9999

Counsel for Amicus Curiae



CERTIFICATE OF INTEREST

Counsel for amici curiae certify the following:

1. The full name of every amicus I represent is:

STC.UNM and William Eskridge, Jr.

2. The name of the real party-in-interest I represent is:

STC.UNM and William Eskridge, Jr.

3. The parent corporation and publicly held companies that own 10 percent or more of stock of the party I represent is:

STC.UNM is a nonprofit research park formed under the laws of the State of New Mexico. Its sole member is the Regents of the University of New Mexico ("The University"). STC.UNM is governed by an independent board of directors appointed by The University.

William Eskridge, Jr. is a professor and scholar of civil procedure, statutory interpretation, and constitutional law.

4. The names of all law firms and the partner or associates that appeared for this party represented by me in the trial court or are expected to appear in this Court (and who have not or will not enter an appearance in this case) are:

William Eskridge, Jr.



5. The title and number of any case known to be pending in this or any other court or agency that will directly affect or be affected by this Court's decision in this appeal:

Regents of the University of Minnesota v. LSI Corporation et al, Nos. 2018-1559 (Lead), -1560, 1561, 1562, 1563, 1564, 1565.



TABLE OF CONTENTS

CERTI	FICATE OF INTEREST	i	
TABLI	E OF CONTENTS	iii	
TABLE OF AUTHORITIESiv			
STATEMENT BY AMICUS CURIAE1			
SUMMARY OF THE ARGUMENT2			
ARGUMENT2			
I.	The 2011 Act creating the IPR established an agency adjudication between adverse parties, not another bureaucratic reexamination	3	
II.	The IPR process is a party-directed administrative adjudication that mimics federal court adjudication.	5	
III.	The PTAB is not exercising the politically accountable prosecutorial role that <i>Alden v. Maine</i> contrasted with adjudication	8	
CERTI	FICATE OF COMPLIANCE	13	
CERTIFICATE OF SERVICE 14			

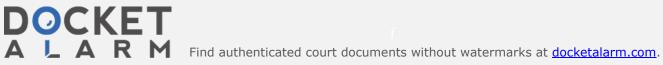


TABLE OF AUTHORITIES

CASES:

Alden v. Maine, 527 U.S. 706 (1999)	passim
Ashcroft v. Iqbal, 556 U.S. 662 (2009)	6
Bob Jones Univ. v. United States, 461 U.S. 574 (1983)	8
Chao v. Virginia Dept. of Transportation, 291 F.3d 276 (4th Cir. 2002)	10
Federal Maritime Comm'n v. South Carolina State Ports Auth., 535 U.S. 743 (2002)	2, 5, 9
Hampton v. Mow Sun Wong, 426 U.S. 88 (1976)	11
King v. Burwell, 135 S. Ct. 2480 (2015)	11
Republic of Philippines v. Pimentel, 553 U.S. 851 (2008)	7
SAS Inst., Inc. v. Iancu, 138 S.Ct. 1348 (2018)	4, 5, 6, 10
U.S. v. Alabama Dept. of Mental Health and Mental Retardation, 673 F.3d 1320 (11th Cir. 2012)	10
STATUTES:	
35 U.S.C. § 31	4
35 U.S.C. § 271	3
35 U.S.C. 8 314	6.7



DOCKET

Explore Litigation Insights



Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time** alerts and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.

