

No. 18-

IN THE
Supreme Court of the United States

SAINT REGIS MOHAWK TRIBE AND ALLERGAN, INC.,

Petitioners,
v.

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

Respondents.

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

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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