

Nos. 19-1434, 19-1452, and 19-1458

In the Supreme Court of the United States

UNITED STATES OF AMERICA, PETITIONER

v.

ARTHREX, INC., ET AL.

*ON WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT*

**REPLY AND RESPONSE BRIEF
FOR THE UNITED STATES**

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(Additional Captions On Inside Cover)

SMITH & NEPHEW, INC., ET AL., PETITIONERS

v.

ARTHREX, INC., ET AL.

ARTHREX, INC., PETITIONER

v.

SMITH & NEPHEW, INC., ET AL.

QUESTIONS PRESENTED

1. Whether, for purposes of the Appointments Clause, U.S. Const. Art. II, § 2, Cl. 2, administrative patent judges of the U.S. Patent and Trademark Office are principal officers who must be appointed by the President with the Senate's advice and consent, or "inferior Officers" whose appointment Congress has permissibly vested in a department head.

2. Whether, if administrative patent judges are principal officers, the court of appeals properly cured any Appointments Clause defect in the current statutory scheme prospectively by severing the application of 5 U.S.C. 7513(a) to those judges.

(I)

TABLE OF CONTENTS

Page

Summary of argument 1

Argument:

- I. Administrative patent judges are inferior officers whose appointment Congress validly vested in the Secretary of Commerce 5
 - A. From start to finish, the work of administrative patent judges is subject to significant supervision and direction by Senate-confirmed officers 6
 - B. The Appointments Clause does not require that every decision by an inferior officer must be subject to review and possible modification by a principal officer 18
 - 1. The Appointments Clause imposes no exclusive criterion for inferior-officer status 18
 - 2. History provides no sound basis for treating principal-officer review as an indispensable prerequisite to inferior-officer status 25
- II. If the Court concludes that administrative patent judges are principal officers under the current scheme, the Court should affirm the Federal Circuit’s remedial holding severing the statutory removal restrictions 31
 - A. Administrative patent judges’ modest tenure protections may be severed from the rest of the statute 31
 - B. The existence of other potential means to cure any Appointments Clause problem does not cast doubt on the court of appeals’ approach 40

Conclusion 43

(III)

IV

TABLE OF AUTHORITIES

Cases:	Page
<i>Abrams v. Social Security Administration</i> , 703 F.3d 538 (Fed. Cir. 2012).....	7
<i>Ayotte v. Planned Parenthood of N. New England</i> , 546 U.S. 320 (2006).....	32, 38, 39
<i>Barr v. American Ass’n of Political Consultants</i> , <i>Inc.</i> , 140 S. Ct. 2335 (2020).....	32, 42
<i>BioDelivery Scis. Int’l, Inc. v. Aquestive Therapeu-</i> <i>tics, Inc.</i> , 935 F.3d 1362 (Fed. Cir. 2019), cert. denied, 141 S. Ct. 254 (2020)	13
<i>Bowsher v. Synar</i> , 478 U.S. 714 (1986).....	9
<i>Brown v. Department of the Navy</i> , 229 F.3d 1356 (Fed. Cir. 2000), cert. denied, 553 U.S. 949 (2001)	7
<i>Cobert v. Miller</i> , 800 F.3d 1340 (Fed. Cir. 2015)	7
<i>Cooper Techs. Co. v. Dudas</i> , 536 F.3d 1330 (Fed. Cir. 2008)	10, 11
<i>Cuozzo Speed Technologies, LLC v. Lee</i> , 136 S. Ct. 2131 (2016)	11, 16, 17, 38
<i>DBC, In re</i> , 545 F.3d 1373 (Fed. Cir. 2008), cert. denied, 558 U.S. 816 (2009)	30
<i>Department of Transportation v. Association of</i> <i>American Railroads</i> , 575 U.S. 43 (2015)	22
<i>Edmond v. United States</i> , 520 U.S. 651 (1997).....	<i>passim</i>
<i>Exum v. Department of Homeland Security</i> , 446 Fed. Appx. 282 (Fed. Cir. 2011)	7
<i>Facebook, Inc. v. Windy City Innovations, LLC</i> , 973 F.3d 1321 (Fed. Cir. 2020).....	11
<i>Free Enterprise Fund v. Public Co. Accounting</i> <i>Oversight Bd.</i> , 561 U.S. 477 (2010).....	<i>passim</i>
<i>Freytag v. Commissioner</i> , 501 U.S. 868 (1991)	20, 30
<i>Glidden Co. v. Zdanok</i> , 370 U.S. 530 (1962)	29

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