

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

IN THE
Supreme Court of the United States

UNITED STATES OF AMERICA,

Petitioner,

v.

ARTHREX, INC., ET AL.,

Respondents.

**On Writs Of Certiorari
To The United States Court Of Appeals
For The Federal Circuit**

**RESPONSE AND REPLY BRIEF
FOR SMITH & NEPHEW, INC.
AND ARTHROCARE CORP.**

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(Additional captions listed on inside cover.)

SMITH & NEPHEW, INC., ET AL.,

Petitioners,

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ARTHREX, INC., ET AL.,

Respondents.

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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.

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