

No. 19-1434

In the Supreme Court of the United States

UNITED STATES OF AMERICA, PETITIONER

v.

ARTHREX, INC., ET AL.

UNITED STATES OF AMERICA, PETITIONER

v.

POLARIS INNOVATIONS LIMITED, ET AL.

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

PETITION FOR A WRIT OF CERTIORARI

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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 the court of appeals erred by adjudicating an Appointments Clause challenge brought by a litigant that had not presented the challenge to the agency.

(I)

PARTIES TO THE PROCEEDING

The petitioner in this Court is the United States of America, which intervened in the court of appeals in both Nos. 2018-2140 and 2018-1831 pursuant to 28 U.S.C. 2403(a).

The respondents in this Court are Arthrex, Inc., which was the appellant in the court of appeals in No. 2018-2140; Smith & Nephew, Inc., and Arthrocare Corp., which were the appellees in the court of appeals in No. 2018-2140; Polaris Innovations Limited, which was the appellant in the court of appeals in No. 2018-1831; and Kingston Technology Company, Inc., which was the appellee in the court of appeals in No. 2018-1831.

RELATED PROCEEDINGS

United States Court of Appeals (Fed. Cir.):

Arthrex, Inc. v. Smith & Nephew, Inc., No. 2018-2140
(Oct. 31, 2019)

Polaris Innovations Limited v. Kingston Technology Company, Inc., No. 2018-1831 (Jan. 31, 2020)

(II)

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