

NOTE: This order is nonprecedential.

**United States Court of Appeals  
for the Federal Circuit**

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**ARTHREX, INC.,**  
*Appellant*

v.

**SMITH & NEPHEW, INC., ARTHROCARE CORP.,**  
*Appellees*

**UNITED STATES,**  
*Intervenor*

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2018-2140

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Appeal from the United States Patent and Trademark Office, Patent Trial and Appeal Board in No. IPR2017-00275.

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Before MOORE, REYNA, and CHEN, *Circuit Judges*.

PER CURIAM.

**ORDER**

IT IS ORDERED THAT:

The government's motion is granted in part and denied in part. It is granted as to the expansion of scope and denied as to extension of time. As part of the expansion, please explain the government's proposal on page 35 of its

brief: “Alternatively, this Court could hold that 35 U.S.C. § 3(c)’s provision that USPTO officers and employees are subject to Title 5 cannot constitutionally be applied to Board members with respect to that Title’s removal restrictions, *and thus must be severed* to that extent.”

To the extent that Arthrex’s opposition could be construed as a motion, it is denied. No extensions of time will be granted. Briefing shall not exceed 20 pages double spaced.

FOR THE COURT

October 23, 2019  
Date

/s/ Peter R. Marksteiner  
Peter R. Marksteiner  
Clerk of Court