

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE  
PATENT TRIAL AND APPEAL BOARD

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GENERAL ORDER IN CASES REMANDED UNDER  
*ARTHREX, INC. V. SMITH & NEPHEW, INC.*,  
941 F.3D 1320 (FED. CIR. 2019)

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GENERAL ORDER

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Before SCOTT R. BOALICK, *Chief Administrative Patent Judge*.

BOALICK, *Chief Administrative Patent Judge*.

The United States Patent and Trademark Office (“Office”) has received from the United States Court of Appeals for the Federal Circuit (“Federal Circuit”) numerous Orders that rely on the Federal Circuit’s decision in *Arthrex, Inc. v. Smith & Nephew, Inc.*, 941 F.3d 1320 (Fed. Cir. 2019). Those Orders have already vacated more than 100 decisions by the Patent Trial and Appeal Board (“Board”), and more such Orders are expected. The Orders instruct the Board to conduct further proceedings on remand before newly-designated Board panels.

Several parties in Board matters that have been subject to such Orders have informed the Office that they intend to seek review of the pertinent Order by the Supreme Court of the United States (“Supreme Court”). Meanwhile, in accordance with the Board’s Standard Operating Procedure 9 (“SOP 9”), parties are contacting the Board to schedule teleconferences with the appropriate Board panel in their proceeding. To avoid burdening the

## General Order Regarding *Arthrex*-Related Remands

Office and the parties until all appellate rights have been exhausted, I exercise my discretion to: (1) suspend the requirements in SOP 9 in cases remanded by the Federal Circuit under *Arthrex*; and (2) hold all such cases in administrative abeyance until the Supreme Court acts on a petition for certiorari or the time for filing such petitions expires.

### ORDER

It is therefore ORDERED that the following matters are held in abeyance:

1. App. Ser. No. 95/001,679
2. App. Ser. No. 95/001,754
3. App. Ser. No. 95/001,792
4. App. Ser. No. 95/001,851
5. CBM2017-00064
6. CBM2017-00065
7. CBM2017-00066
8. CBM2017-00067
9. CBM2018-00034
10. IPR2014-01235
11. IPR2015-00249
12. IPR2015-01046
13. IPR2015-01047
14. IPR2016-00693
15. IPR2016-00957
16. IPR2016-01542
17. IPR2016-01621
18. IPR2016-01622

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19. IPR2016-01756
20. IPR2017-01218
21. IPR2017-00058
22. IPR2017-00116
23. IPR2017-00198
24. IPR2017-00275
25. IPR2017-00350
26. IPR2017-00351
27. IPR2017-00352
28. IPR2017-00353
29. IPR2017-00524
30. IPR2017-00901
31. IPR2017-00950
32. IPR2017-00951
33. IPR2017-00952
34. IPR2017-01048
35. IPR2017-01049
36. IPR2017-01050
37. IPR2017-01256
38. IPR2017-01391
39. IPR2017-01392
40. IPR2017-01393
41. IPR2017-01405
42. IPR2017-01406
43. IPR2017-01409
44. IPR2017-01410

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45. IPR2017-01500
46. IPR2017-01707
47. IPR2017-01714
48. IPR2017-01735
49. IPR2017-01736
50. IPR2017-01737
51. IPR2017-01797
52. IPR2017-01798
53. IPR2017-01799
54. IPR2017-01800
55. IPR2017-01801
56. IPR2017-01802
57. IPR2017-01919
58. IPR2017-02131
59. IPR2017-02132
60. IPR2017-02136
61. IPR2017-02138
62. IPR2017-02158
63. IPR2018-00522
64. IPR2018-00864
65. IPR2018-00044
66. IPR2018-00187
67. IPR2018-00200
68. IPR2018-00205
69. IPR2018-00206
70. IPR2018-00207

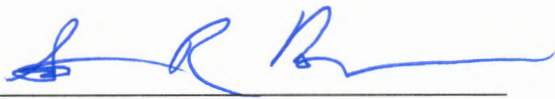
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71. IPR2018-00208
72. IPR2018-00272
73. IPR2018-00312
74. IPR2018-00329
75. IPR2018-00333
76. IPR2018-00336
77. IPR2018-00338
78. IPR2018-00339
79. IPR2018-00342
80. IPR2018-00343
81. IPR2018-00369
82. IPR2018-00374
83. IPR2018-00375
84. IPR2018-00404
85. IPR2018-00458
86. IPR2018-00486
87. IPR2018-00529
88. IPR2018-00571
89. IPR2018-00599
90. IPR2018-00680
91. IPR2018-00870
92. IPR2018-00871
93. IPR2018-00872
94. IPR2018-00873
95. IPR2018-00874
96. IPR2018-00875

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- 97. IPR2018-00998
- 98. IPR2018-00999
- 99. IPR2018-01000
- 100. IPR2018-01004
- 101. IPR2018-01005
- 102. IPR2018-01066
- 103. IPR2018-01205

It is further ORDERED that any other matters remanded by the Federal Circuit under *Arthrex* will be held in abeyance.



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Scott R. Boalick  
Chief Administrative Patent Judge