

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

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IN THE  
*Supreme Court of the United States*

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UNITED STATES OF AMERICA,

*Petitioner,*

v.

ARTHREX, INC., ET AL.,

*Respondents.*

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

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

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CHARLES T. STEENBURG  
NATHAN R. SPEED  
RICHARD F. GIUNTA  
WOLF, GREENFIELD & SACKS, P.C.  
600 Atlantic Avenue  
Boston, MA 02210  
(617) 646-8000

MARK J. GORMAN  
SMITH & NEPHEW, INC.  
7135 Goodlett Farms Parkway  
Cordova, TN 38016  
(901) 399-6903

MARK A. PERRY  
*Counsel of Record*  
KELLAM M. CONOVER  
BRIAN A. RICHMAN  
MAX E. SCHULMAN  
GIBSON, DUNN & CRUTCHER LLP  
1050 Connecticut Avenue, N.W.  
Washington, D.C. 20036  
(202) 955-8500  
MPerry@gibsondunn.com

JESSICA A. HUDAK  
GIBSON, DUNN & CRUTCHER LLP  
3161 Michelson Drive  
Irvine, CA 92612  
(949) 451-3837

*Counsel for Smith & Nephew, Inc. and ArthroCare Corp.*

(Additional captions listed on inside cover.)

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SMITH & NEPHEW, INC., ET AL.,

*Petitioners,*

v.

ARTHREX, INC., ET AL.,

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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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