

NOTE: This order is nonprecedential.

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

**BOSTON SCIENTIFIC NEUROMODULATION
CORPORATION,**
Appellant

v.

NEVRO CORP.,
Cross-Appellant

2019-1582, -1635

Appeals from the United States Patent and Trademark
Office, Patent Trial and Appeal Board in Nos. IPR2017-
01812 and IPR2017-01920.

**BOSTON SCIENTIFIC NEUROMODULATION
CORPORATION,**
Appellant

v.

NEVRO CORP.,
Appellee

2019-1584

Appeal from the United States Patent and Trademark Office, Patent Trial and Appeal Board in No. IPR2017-01899.

ON MOTION

Before LOURIE, *Circuit Judge*.

O R D E R

Boston Scientific Neuromodulation Corporation moves for leave to file supplemental briefing in the above-captioned appeals to submit argument regarding the Appointments Clause in light of *Arthrex, Inc. v. Smith & Nephew, Inc.*, No. 2018-2140, 2019 WL 5616010 (Fed. Cir. Oct. 31, 2019). The government moves to stay proceedings or alternatively for an extension of time to intervene and respond to Boston Scientific's motion. Nevro Corp. moves for an extension of time to respond to Boston Scientific's motion.

The court concludes that the Appointments Clause challenge in these cases was forfeited. *See Customedia Techs., LLC v. Dish Network Corp.*, No. 2018-2239 et al., 2019 WL 5677703 (Fed. Cir. Nov. 1, 2019). Boston Scientific's motions are therefore denied. The government's motions for a stay or extension and Nevro's motions for an extension are likewise denied.

Accordingly,

IT IS ORDERED THAT:

The motions are denied.

BOSTON SCIENTIFIC v. NEVRO CORP.

3

FOR THE COURT

November 22, 2019
Date

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

s29