

NOTE: This order is nonprecedential.

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

In re: BOLORO GLOBAL LIMITED,
Appellant

2019-2349, -2351, -2353

Appeals from the United States Patent and Trademark Office, Patent Trial and Appeal Board in Nos. 14/222,613, 14/222,615, and 14/222,616.

ON MOTION

PER CURIAM.

ORDER

Upon consideration of Boloro Global Limited's motion to vacate and remand and the Director of the United States Patent and Trademark Office's opposition and supplemental response, the court requests additional briefing.

The parties are directed to file a response addressing the following questions: (1) whether the Director's purported ability to refuse to issue a patent if the Patent Trial and Appeal Board approves an application amounts to sufficient control or review over the Board's exercise of authority to render them inferior officers?; and (2) whether, under the Supreme Court's reasoning in *Freytag v.*

Commissioner, 501 U.S. 868, 882 (1991) that if the special trial judge in question was “an inferior officer for purposes of” some responsibilities, then “he is an inferior officer within the meaning of the Appointments Clause and he must be properly appointed,” can an administrative patent judge’s appointment be unconstitutional with regard to *inter partes* reviews as was determined in *Arthrex, Inc. v. Smith & Nephew, Inc.*, 941 F.3d 1320 (Fed. Cir. 2019) and yet constitutional for reviewing initial examination?

Accordingly,

IT IS ORDERED THAT:

The parties are each directed to file a response within 14 days from the date of filing of this order. Each response should not exceed 10 pages in length.

FOR THE COURT

April 13, 2020
Date

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