

NOTE: This order is nonprecedential.

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

AGROFRESH, INC.,
Appellant

v.

UPL LIMITED,
Appellee

**ANDREI IANCU, Director, U.S. Patent and Trade-
mark Office,**
Intervenor

2019-2243

Appeal from the United States Patent and Trademark
Office, Patent Trial and Appeal Board in No. IPR2017-
01919.

ON MOTION

Before NEWMAN, MOORE, and TARANTO, *Circuit Judges*.
MOORE, *Circuit Judge*.

O R D E R

AgroFresh, Inc. moves to vacate the decision of the Patent Trial and Appeal Board and remand for further proceedings in light of *Arthrex, Inc. v. Smith & Nephew, Inc.*, 941 F.3d 1320 (Fed. Cir. 2019). The Director of the United States Patent and Trademark Office intervenes and requests that the court hold the motion in abeyance pending en banc consideration of *Arthrex*. UPL Limited opposes the motion and alternatively asks the court to hold the motion in abeyance pending *Arthrex*.

Upon consideration thereof,

IT IS ORDERED THAT:

(1) The Director of the United States Patent and Trademark Office is added as an intervenor. The revised official caption is reflected above.

(2) The motion to vacate and remand is granted. The Patent Trial and Appeal Board's decision is vacated, and the case is remanded to the Board for proceedings consistent with this court's decision in *Arthrex*.

(3) Each side shall bear its own costs.

FOR THE COURT

January 24, 2020
Date

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