

NOTE: This order is nonprecedential.

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

PFIZER INC.,
Appellant

v.

**MERCK SHARP & DOHME CORP., SANOFI
PASTEUR INC., SK CHEMICALS CO., LTD.,**
Appellees

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

2019-1871, -1873, -1875, -1876, -2224

Appeals from the United States Patent and Trademark
Office, Patent Trial and Appeal Board in Nos. IPR2017-
02131, IPR2017-02132, IPR2017-02136, IPR2017-02138,
and IPR2018-00187.

ON MOTION

Before MOORE, O'MALLEY, and STOLL, *Circuit Judges*.
O'MALLEY, *Circuit Judge*.

O R D E R

Pfizer 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). Merck Sharp & Dohme Corp., Sanofi Pasteur Inc., and SK Chemicals Co. Ltd. oppose the motion. The Director of the United States Patent and Trademark Office intervenes and requests that the court hold any decision on the motion in abeyance pending en banc consideration of *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 21, 2020
Date

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