

NOTE: This order is nonprecedential.

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

NEW VISION GAMING & DEVELOPMENT, INC.,
Appellant

v.

SG GAMING, INC., fka Bally Gaming, Inc.,
Appellee

**ANDREI IANCU, Undersecretary of Commerce for
Intellectual Property and Director of the United
States Patent and Trademark Office,**
Intervenor

2020-1399, -1400

Appeals from the United States Patent and Trademark
Office, Patent Trial and Appeal Board in Nos. CBM2018-
00005 and CBM2018-00006.

ON MOTION

O R D E R

In its opening brief, New Vision Gaming & Develop-
ment, Inc. argues, inter alia, that the appealed Patent Trial
and Appeal Board's decisions should be vacated and re-
manded pursuant to *Arthrex, Inc. v. Smith & Nephew, Inc.*,

941 F.3d 1320 (Fed. Cir. 2019). SG Gaming, Inc. moves to waive Federal Circuit Rule 27(e) and (f) and asks the court to decide the *Arthrex* challenge prior to full briefing and to strike portions of the opening brief. New Vision opposes SG Gaming's motions and moves to take judicial notice, which SG Gaming opposes. The Director of the United States Patent and Trademark Office responds, asking that this court hold New Vision's appointments clause challenge in abeyance pending any further review by the Supreme Court in *Arthrex*.

Upon consideration thereof,

IT IS ORDERED THAT:

(1) SG Gaming's motions are denied. SG Gaming is directed to raise its arguments in its response brief.

(2) New Vision's motion for judicial notice is deferred to the merits panel. A copy of this order and the motion papers shall be transmitted to the merits panel.

(3) The briefing stay is lifted. SG Gaming's and the Director's briefs are due within 40 days of the date of filing of this order.

FOR THE COURT

September 02, 2020
Date

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