

NOTE: This disposition is nonprecedential.

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

POLARIS INNOVATIONS LIMITED,
Appellant

v.

KINGSTON TECHNOLOGY COMPANY, INC.,
Appellee

UNITED STATES,
Intervenor

2018-1768

Appeal from the United States Patent and Trademark Office, Patent Trial and Appeal Board in No. IPR2016-01621.

Decided: January 31, 2020

MATTHEW D. POWERS, Tensegrity Law Group LLP, Redwood Shores, CA, argued for appellant. Also represented by JENNIFER ROBINSON; AZRA HADZIMEHMEDOVIC, AARON MATTHEW NATHAN, SAMANTHA A. JAMESON, McLean, VA; NATHAN NOBU LOWENSTEIN, KENNETH J. WEATHERWAX, Lowenstein & Weatherwax LLP, Los Angeles, CA.

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CO. INC.

MICHAEL JOHN BALLANCO, Fish & Richardson PC, Washington, DC, argued for appellee. Also represented by DAVID M. HOFFMAN, Austin, TX.

MELISSA N. PATTERSON, Appellate Staff, Civil Division, United States Department of Justice, Washington, DC, argued for intervenor. Also represented by COURTNEY DIXON, DENNIS FAN, SCOTT R. MCINTOSH, JOSEPH H. HUNT; THOMAS W. KRAUSE, JOSEPH MATAL, FARHEENA YASMEEN RASHEED, Office of the Solicitor, United States Patent and Trademark Office, Alexandria, VA.

Before REYNA, WALLACH, and HUGHES, *Circuit Judges*.

PER CURIAM.

In its opening brief, Polaris Innovations Limited argues that the final written decision at issue in this appeal exceeds the scope of the Patent Trial and Appeal Board's authority and violates the Constitution's Appointments Clause. *See* Appellant's Br. 52 (citing U.S. Const. art. II, § 2, cl. 2). This court recently decided this issue in *Arthrex, Inc. v. Smith & Nephew, Inc.*, 941 F.3d 1320 (Fed. Cir. 2019). Accordingly, the Board's decision in No. IPR2016-01621 is vacated, and the case is remanded to the Board for proceedings consistent with this court's decision in *Arthrex*.

VACATED AND REMANDED

COSTS

No costs.