

IN THE SUPREME COURT OF THE UNITED STATES

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No. 20-440

MINERVA SURGICAL, INC., PETITIONER

v.

HOLOGIC, INC., ET AL.

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ON WRIT OF CERTIORARI  
TO THE UNITED STATES COURT OF APPEALS  
FOR THE FEDERAL CIRCUIT

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MOTION OF THE UNITED STATES FOR LEAVE TO  
PARTICIPATE IN ORAL ARGUMENT AS AMICUS CURIAE  
AND FOR DIVIDED ARGUMENT

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Pursuant to Rules 28.4 and 28.7 of the Rules of this Court, the Acting Solicitor General, on behalf of the United States, respectfully moves that the United States be granted leave to participate in the oral argument in this case as amicus curiae in support of neither party and that the United States be allowed ten minutes of argument time. Petitioner and respondents have each agreed to cede five minutes of argument time to the United States and accordingly consent to this motion.

This case presents the question whether, or under what circumstances, the doctrine of "assignor estoppel" applies to foreclose a defendant in a patent-infringement action, who previously assigned his rights to the patented invention, from raising a defense of patent invalidity. The United States filed a brief as amicus curiae in support of neither party. Like respondents, the United States has contended that assignor estoppel is a viable legal doctrine in at least some circumstances. Like petitioner, however, it has contended that the court of appeals' analysis of assignor estoppel in this case was inadequate.

The United States has a substantial interest in the resolution of the question presented because it concerns the validity and assignability of patents. The United States Patent and Trademark Office is responsible for "the granting and issuing of patents," 35 U.S.C. 2(a)(1), as well as for advising the President on issues of patent policy and advising federal departments and agencies on matters of intellectual-property policy, 35 U.S.C. 2(b)(8) and (9). Several other agencies of the federal government also have strong regulatory interests in the efficacy and competitive effects of the patent system.

The United States has previously presented oral argument as amicus curiae in cases concerning the interpretation and application of U.S. patent laws. See, e.g., Helsinn Healthcare S.A. v. Teva Pharms. USA, Inc., 139 S. Ct. 628 (2019); WesternGeco

LLC v. ION Geophysical Corp., 138 S. Ct. 2129 (2018); Life Techs. Corp. v. Promega Corp., 137 S. Ct. 734 (2017); Samsung Elecs. Co. v. Apple Inc., 137 S. Ct. 429 (2016); Halo Elecs., Inc. v. Pulse Elecs., Inc., 136 S. Ct. 1923 (2016); Kimble v. Marvel Entm't, LLC, 135 S. Ct. 2401 (2015). In light of the substantial federal interest in the question presented, the United States' participation at oral argument would materially assist the Court in its consideration of this case.

Respectfully submitted.

ELIZABETH B. PRELOGAR  
Acting Solicitor General  
Counsel of Record

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