

**APPENDIX A**

Case: 20-1245 Document: 61 Page: 1 Filed: 02/03/2021

NOTE: This order is nonprecedential.

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

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ALBERTO SOLAR SOMOHANO,

*Appellant*

v.

THE COCA-COLA COMPANY,

*Appellee*

UNITED STATES,

*Intervenor*

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2020-1245

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Appeal from the United States Patent and Trademark  
Office, Trademark Trial and Appeal Board in No.  
91232090.

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**ORDER**

The appellant having failed to file an appendix required  
by Federal Circuit Rule 30(a) within the time permitted by  
the rules, it is

**APPENDIX B**

Case: 20-1245 Document: 32 Page: 1 Filed: 03/23/2020

**NOTE: This order is nonprecedential.**

United States Court of Appeals  
for the Federal Circuit

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ALBERTO SOLER-SOMOHANO,

*Appellant*

WHO,

*Applicant*

v.

THE COCA-COLA COMPANY,

*Appellee*

ANDREI IANCU, Director, U.S. Patent and Trademark

Office,

*Intervenor*

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2020-1245

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Appeal from the United States Patent and Trademark  
Office, Trademark Trial and Appeal Board in No.  
91232090

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**ON MOTION**

4(a)

Case: 20-1245 Document: 32 Page: 2 Filed: 03/23/2020

PER CURIAM.

**ORDER**

Alberto Soler-Somohano moves for summary disposition of the above-captioned appeals. The Coca-Cola Company (“Coca-Cola”) opposes. The Director of the United States Patent and Trademark Office intervenes and opposes. In Appeal No. 2019-2414, Mr. Soler-Somohano also appears to move for leave to submit a formal opening brief to replace his informal opening brief filed before the certified list was received, stating that he filed the informal opening brief while under the impression that it was “a requirement filing for being pro-se.” Coca-Cola opposes that motion.

Upon consideration thereof,

IT IS ORDERED THAT:

(1) The motions for summary disposition are denied without prejudice to the parties raising their respective arguments in the briefing.

(2) The motion to file a replacement formal brief in Appeal No. 2019-2414 is granted. Any formal opening briefs in the three above-captioned appeals is due no later than 60 days from the date of filing of this order. Coca Cola’s and the Director’s response briefs are due no later than 40 days thereafter.

FOR THE COURT

March 23, 2020  
Date

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

**APPENDIX C**

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United States Court of Appeals  
for the Federal Circuit

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ALBERTO SOLAR SOMOHANO,

Appellant

v.

COCA-COLA COMPANY,

Appellee

UNITED STATES,

Intervenor

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2019-2414; 2020-1245 & 2020-1406

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Appeal from the United States Patent and Trademark  
Office, Trademark Trial and Appeal Board

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**ON MOTION**

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**ORDER**

It appears that Alberto Soler-Somohano submits a motion to vacate and remand this appeal from the Trademark Trial and Appeal Board in light of this court's recent decision in *Arthrex, Inc. v. Smith & Nephew, Inc.*, 941 F.3d 1320 (Fed. Cir. 2019). Mr. Soler-Somohano also notices the court that he is challenging the Board's decision as rendered by a panel of administrative trademark judges who were appointed in violation of the Appointments Clause of the Constitution.

6(a)

Upon notice of the fact that “a party questions the constitutionality of an Act of Congress in a proceeding in which the United States . . . is not a party,” the clerk of this court must “certify that fact to the Attorney General.” Fed. R. App. P. 44(a); see also 28 U.S.C. § 2403(a) (“In any action . . . in a court of the United States to which the United States . . . is not a party, wherein the constitutionality of any Act of Congress affecting the public interest is drawn in question, the court shall certify such fact to the Attorney General, and shall permit the United States to intervene . . . for argument on the question of constitutionality.”).

Upon consideration thereof,

IT IS ORDERED THAT:

(1) Notice of Mr. Soler-Somohano’s constitutional challenge is hereby certified to the Attorney General.

(2) The United States’ request to intervene and any response by the United States to the motion is due no later than February 26, 2020. Any reply in support of the motion is due no later than March 2, 2020.

(3) The briefing schedule is stayed. See Fed. Cir. R. 31(c).

February 19<sup>th</sup>, 2020

Date

FOR THE COURT

/s/ Peter R. Marksteiner

Peter R. Marksteiner

Clerk of Court

s31

cc: United States Attorney General

7(a)

**APPENDIX D**

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United States Court of Appeals  
for the Federal Circuit

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ALBERTO SOLAR SOMOHANO,

Appellant

v.

COCA-COLA COMPANY,

Appellee

UNITED STATES,

Intervenor

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2019-2414; 2020-1245 & 2020-1406

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Pursuant to the Federal Rule of Appellate Procedure 44(a), the Appellant ALBERTO SOLAR provides notice that it has challenge the constitutional of inter parties review provided by 35 USC 2/3/4 and by 15 USC 1067 and the U.S. Constitution [7] The specific constitutional questions at issue in this appeal is as follow:

**QUESTION ONE**

Whether the Federal Circuit Court of Appeals decision of *Arthrex v. Smith & Nephew, Inc*, 2018-2140 (Oct. 31st, 2019), concluding that the Patent Judges selection to the Board violated the Appointment Clause, also concludes the same as to Trademark Judges, and if affirmative

**QUESTION TWO**

*Whether, if the Patent Act of 2002 that was signed by the President was not the law that was passed by both houses, does the entire Act must be invalidated as void*