



Charley Macedo Featured in IPWatchdog Article on Reactions to U.S. Supreme Court Decision in Arthrex

IPWatchdog

Charley Macedo was [featured in an IPWatchdog article](#) where leaders in the intellectual property industry provided their reactions to the U.S. Supreme Court's decision in U.S. v. Arthrex.

As noted by IPWatchdog, yesterday the Supreme Court issued a split 5-4 decision, in which a plurality of the Court agreed with the U.S. Court of Appeals for the Federal Circuit that the structure of the Patent Trial and Appeal Board under the America Invents Act has resulted in Administrative Patent Judges being unconstitutionally appointed principal officers, but took a different approach than the CAFC to fixing the problem.

Charley noted: "Today, a splintered Supreme Court recognized that the PTAB APJs are and should be considered "inferior officers", except to the extent that a final written decision in an IPR remains unreviewable by a principal officer. Thus, a slim majority (Roberts, Ch.J., Alito, Gorsuch, Kavanaugh and Barrett) was troubled by the inability under Section 6(c) for the Director to directly review a final written decision by the PTAB. Based on this conclusion, a different and unusual confederation of the Justices (Roberts, Ch. J., Alito, Kavanaugh, Barrett, and Breyer, Kagan and Sotomayor, on this key last point) agreed to sever the restriction on the Director's review. Under today's holdings, the PTAB and inter partes review proceedings will continue to proceed. It will be interesting to see how the new Director, when one is appointed, takes on this role of adjudication and final review. In the meantime, the PTAB APJ saga will no doubt continue to linger."

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