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## **New Vision Wins Another Chance to Defend Gaming Patents Following Arthrex Remand**

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The Court granted New Vision's request to vacate and remand the Board's decision in light of the Court's decision in *Arthrex, Inc. v. Smith & Nephew, Inc.*, 941 F.3d 1320 (Fed. Cir. 2019) finding that New Vision did not waive the challenge because the *Arthrex* decision issued after the Board's final written decision.

Judge Newman filed an opinion concurring in part and dissenting in part. Judge Newman agreed that the Board's decision must be vacated under *Arthrex*. However, Judge Newman argued that the Court should first determine whether the forum selection clause in the parties' license agreement barred SG Gaming from pursuing CBM review before deciding whether remand is appropriate. Judge Newman argued that this is a threshold issue that should be determined because if the parties are committed to resolving any disputes in Nevada, there is no basis for new PTAB proceedings on remand.

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