

No. 18-1959

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

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GENENTECH, INC.,  
APPELLANT

v.

HOSPIRA, INC.,  
APPELLEE

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*ON APPEAL FROM THE UNITED STATES PATENT AND  
TRADEMARK OFFICE PATENT TRIAL AND APPEAL BOARD IN  
NO. IPR2016-01771*

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**NOTICE OF CONSTITUTIONAL CHALLENGE TO FEDERAL  
STATUTE**

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Pursuant to Rule 44(a) of the Federal Rules of Appellate Procedure, appellant Genentech, Inc. provides notice that in this appeal it has challenged the constitutionality of retroactively applying inter partes review to a patent issued prior to the enactment of the Leahy-Smith America Invents Act (“AIA”), Pub. L. No. 112-29, 125 Stat. 284 (2011). Neither the United States, nor any agency, officer or employee of the United States is a party in an official capacity in this appeal.

AUGUST 27, 2018

Respectfully submitted,

/s/ Paul B. Gaffney

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# UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

## CERTIFICATE OF SERVICE

I certify that I served a copy on counsel of record on August 27, 2018  
by:

- U.S. Mail
- Fax
- Hand
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Paul B. Gaffney /s/ Paul B. Gaffney

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