

No. \_\_\_\_\_

---

**IN THE SUPREME COURT OF THE UNITED STATES**

---

GLASSWALL SOLUTIONS LIMITED, GLASSWALL (IP) LIMITED,  
*Applicants,*

v.

CLEARSWIFT LTD.,  
*Respondent.*

---

**APPLICATION FOR AN EXTENSION OF TIME TO  
FILE A PETITION FOR A WRIT OF CERTIORARI**

---

To the Honorable John G. Roberts, Jr.,  
Chief Justice of the Supreme Court of The United States  
and Circuit Justice for the Federal Circuit

---

Robert J. Carlson  
*Counsel of Record*  
Lee & Hayes, P.C.  
701 Pike Street, Ste. 1600  
Seattle, WA 98101  
T: 206-876-6029  
carlson@leehayes.com

Peter J. Ayers  
Law Office of Peter J. Ayers, PLLC  
220 Bowman Ave.  
Austin, TX 78703  
T: 512-771-3070  
peter@ayersiplaw.com

*Counsel for Applicants Glasswall Solutions Limited, Glasswall (IP) Limited*

**RULE 29.6 STATEMENT**

Glasswall Solutions Limited has no parent corporation and no publicly held company owns 10 percent or more of its stock.

Glasswall (IP) Limited is a wholly-owned subsidiary of Glasswall Solutions Limited.

**To the Honorable John G. Roberts, Jr., Chief Justice of the Supreme Court  
of the United States and Circuit Justice for the Federal Circuit:**

Pursuant to Supreme Court Rules 13.5, 21, 22, and 30, Applicant respectfully requests a 60 day extension of time, up to and including May 19, 2019, to file a petition for a writ of certiorari to the United States Court of Appeals for the Federal Circuit to review that court's decision in *Glasswall Solutions Limited, Glasswall (IP) Limited v. Clearswift, Ltd.* No. 2018-1407 (attached as Exhibit A). The jurisdiction of this Court will be invoked under 28 U.S.C. 1254(1), and the time to file a petition for a writ of certiorari will expire without an extension on March 20, 2019. This application is timely because it has been filed more than ten days prior to the date on which the time for filing the petition is set to expire. Sup. Ct. R. 13.5, 30.

1. This case presents important questions involving rights granted to inventors under the Patent Act, and specifically the application of Section 101 of that Act. This Court's opinion in *Alice Corp. Pty. Ltd. v. CLS Bank Int'l*, 134 S. Ct. 2347 (2014) set forth a two-part test to determine patent eligibility: The first step is whether the claims (as a whole) are directed to a patent-ineligible concept under Section 101, such as an abstract idea or a law of nature. If they are, then the second step instructs courts to ask whether the limitations in the claims add significantly more to "transform a patent-ineligible abstract idea into a patent-eligible invention." *Id.* at 2351.

Section 101 jurisprudence developed by the Federal Circuit in the wake of *Alice* recognizes that "whether a claim recites patent-eligible subject matter is a question of law which may contain underlying facts," *Berkheimer v. HP Inc.*, 881 F.3d 1360,

1368 (Fed. Cir. 2018), *petition for cert. filed* 2018 U.S. S. Ct. Briefs LEXIS 3613 (U.S. Sept. 28, 2018) (No. 18-415), and that questions of fact pertinent to patent invalidity “must be proven by clear and convincing evidence . . . .” *Id.*, 881 F.3d at 1358; *see also Aatrix Software, Inc. v. Green Shades Software, Inc.* 882 F.3d 1121, 1128 (Fed. Cir. 2018).

Applicants’ petition for a writ of certiorari will present the question of whether, and under what circumstances, assertions of fact pleaded by a patent owner, and statements of fact recited in a patent specification, can be deemed conclusory legal assertions that the court is “not bound to accept as true” in granting a Rule 12(b)(6) motion to dismiss for lack of patent-eligible subject matter, *see Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007).

2. Applicants have recently engaged additional counsel to assist in the preparation of a petition for a writ of certiorari. The extension requested will permit newly added counsel to fully analyze the matter, the decision of the Federal Circuit, relevant statutes and developing case law. The additional time will also permit potential amici to bring important practical implications of a court’s resolution of underlying issues of fact to the Court’s attention.

Further, Applicants’ counsel have several professional obligations and pending deadlines in other matters that will intensify in the time between this filing and the present deadline for filing a petition for certiorari. The duties of these counsel to client needs will conflict with their ability to prepare and file a petition for writ of certiorari.

Applicants submit that the requested extension of time would neither prejudice the Respondent nor result in undue delay in the Court's consideration of the petition, and that good cause exists to grant the requested extension.

Wherefore, for the foregoing reasons, Applicants respectfully request that an order be entered extending the time for filing a petition for writ of certiorari to and including May 19, 2019.

March 6, 2019

Respectfully submitted,

By: /s/ Robert J. Carlson

Robert J. Carlson  
*Counsel of Record*  
Lee & Hayes, PLLC  
701 Pike Street, Ste. 1600  
Seattle, WA 98101  
T: 206-876-6029  
F: 509-323-8979  
carlson@leehayes.com

Peter J. Ayers  
Law Office of Peter J. Ayers, PLLC  
220 Bowman Ave.  
Austin, TX 78703  
T: 512-771-3070  
F: 512-520-4459  
peter@ayersiplaw.com

*Attorneys for Applicants Glasswall Solutions  
Limited, Glasswall (IP) Limited*