

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

In the  
*Supreme Court of the United States*

INNOVATION SCIENCES, LLC,

Petitioner,

v.

AMAZON.COM, INC.,

Respondent.

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**On Application for Extension of Time to File  
Petition for a Writ of Certiorari to the United States Court of Appeals for  
the Federal Circuit**

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November 18, 2019

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**APPLICATION FOR EXTENSION OF TIME TO FILE PETITION FOR A  
WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS  
FOR THE FEDERAL CIRCUIT**

To the Honorable Justice John Roberts, Chief Justice of the Supreme Court of the United States and Circuit Justice for the United States Court of Appeals for the Federal Circuit:

Pursuant to Rules 13.5, 21, 22, and 30.2 of this Court, Petitioner Innovation Sciences, LLC respectfully requests that the time to file a petition for a writ of certiorari to the United States Court of Appeals for the Federal Circuit be extended for 60 days, to and including February 3, 2020.

The Court of Appeals for the Federal Circuit issued an opinion on July 2, 2019 (see Appendix A) and denied the Petitioner's petition for panel rehearing on September 3, 2019 (see Appendix B). Petitioner is filing this application at least ten days prior to the current due date of December 3, 2019. *See* S. Ct. R. 30.2. This Court would have jurisdiction over the judgment pursuant to 28 U.S.C. § 1254(1).

**BACKGROUND**

Petitioner is the owner of United States Patent No. Re 46,140 ("the '140 patent"). The '140 patent is directed to an innovative system and method for facilitating on-line shopping in which potential buyers peruse products available for purchase on a first website through non-encrypted data but switch to a second website to process payment through encrypted data following detection of a purchase request. The claimed technology logically and physically split a conventional on-line merchant server into a Web server supporting product

browsing and a Payment server which reduced the cost and burden associated the prior on-line shopping technology.

The District Court for the Eastern District of Virginia granted summary judgment finding the claims of the '140 patent invalid as not useful under 35 U.S.C. § 101 by focusing on individual claim elements and not considering the claim as a whole. The District Court did so purporting to rely on this Court's guidance as to the application of that section of the Patent Act. The Court of Appeals for the Federal Circuit affirmed that grant of summary judgment, and subsequently denied Petitioner's motion for rehearing/rehearing en banc.

This dispute, like many others arising from the lower courts' application of Section 101, are now working their way through the system and either are, or soon will be, presented to this Court. The question in many of them is how Section 101 applies to computer networks such as the one at issue here. The Patent Office, charged with evaluating new patent claims for compliance with that statute, has wrestled with that issue and has issued multiple revisions to its Section 101 guidance in the past several years. Like numerous other petitions believed to be pending before this Court, Petitioner's planned writ of certiorari will ask this Court to provide greater clarity as to the application of Section 101 to patent claims directed to how components of a computer network interface with one another.

### **REASONS FOR GRANTING AN EXTENSION OF TIME**

Petitioner's time to file a petition for a writ of certiorari should be extended for 60 days for the following reasons:

1. The undersigned counsel is in the final months of discovery in a consolidated action involving four unrelated defendants.
2. The Mandate from the Federal Circuit has already issued in this case. Thus, the requested 60 day extension will not delay the issue of the mandate.
3. The extension will not work any meaningful prejudice on any party because, if this Court grants the petition, the extension will not delay oral argument.

### CONCLUSION

For the reasons stated above, Petitioner Innovation Sciences, LLC respectfully requests that the time to file a petition for a writ of certiorari in this matter be extended by 60 days, from December 3, 2019 through and including February 3, 2020.

Respectfully submitted,

s/ James D. Berquist

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