

No. 19-____

IN THE

Supreme Court of the United States

PURDUE PHARMA L.P.,
THE P.F. LABORATORIES, INC.,
PURDUE PHARMACEUTICALS L.P.,

Applicants-Petitioners,

v.

ANDREI IANCU, *Director, U.S. Patent and Trademark Office,*

Respondent.

**APPLICATION OF PETITIONERS FOR EXTENSION OF TIME
TO FILE A PETITION FOR A WRIT OF CERTIORARI TO THE
U.S. COURT OF APPEALS FOR THE FEDERAL CIRCUIT**

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

Pursuant to Supreme Court Rules 13.5, 22, and 30 and 28 U.S.C. § 2101(c),
Applicants Purdue Pharma L.P., The P.F. Laboratories, Inc., and Purdue
Pharmaceuticals L.P. (collectively, “Purdue”¹) respectfully request a 60-day
extension of time, up to and including Friday, February 7, 2020, to file a petition for
a writ of certiorari to seek review of the decision of the U.S. Court of Appeals for the
Federal Circuit in *Purdue Pharma L.P. v. Iancu*, 767 F. App’x 918 (Fed. Cir. 2019).
The case involves *inter partes* review of a Purdue pharmaceutical patent that claims

¹ No parent corporation or publicly held company owns 10% or more of stock
in any of the three Purdue entities named as parties in this case.

an abuse-deterrent oxycodone formulation. The Patent Trial and Appeal Board ruled that certain patent claims were unpatentable as obvious, and the Federal Circuit affirmed.

The Federal Circuit issued its judgment of affirmance on April 17, 2019. A copy of that decision is attached as Appendix A. On July 18, 2019, Purdue filed a petition for panel and en banc rehearing, which the Federal Circuit denied on September 9, 2019. A copy of that decision is attached as Appendix B. The jurisdiction of this Court in this case will be invoked under 28 U.S.C. § 1254(1), and the time to file a petition for a writ of certiorari will otherwise expire on Monday, December 9, 2019. This Application for Extension of Time is timely because it has been filed more than ten days prior to the date on which the time for filing the petition is to expire.

Purdue has good cause for an extension of time. Purdue has recently begun bankruptcy proceedings that are still in their early stages. No plan of reorganization has been proposed, and the Official Committee of Unsecured Creditors is just beginning its investigation. Because of the complexity of the bankruptcy proceedings, additional time to consider and prepare a petition for certiorari in this case is needed.

In addition, counsel for Purdue have substantial preexisting commitments that conflict with preparation of the petition, including:

- a. Gregory A. Castanias and Jennifer L. Swize represent plaintiffs in *Juno Therapeutics, Inc. et al. v. Kite Pharma, Inc.*, No. 2:17-cv-7639-

SJO-KSx (C.D. Cal.), a patent-infringement case. A jury trial is scheduled to begin on December 3, 2019, and last 6 to 12 trial days, *i.e.*, into the week of December 9 and potentially into the week of December 16. The matter has involved extensive pre-trial preparation and pre-trial briefing in October and November. And in addition to the press and commitments of the trial itself, extensive post-trial briefing is also expected.

- b. Robert N. Stander represents the defendant in *Regueiro v. American Airlines*, No. 19-cv-293965 (S.D. Fla.), and *Glen v. American Airlines*, No. 19-cv-23994 (S.D. Fla.), and is responsible for ongoing motions briefing in those matters. He is also responsible for certiorari-stage briefing before this Court in *Metcalf v. Fitzgerald*, No. 19-490, in which the response in opposition is due December 16, 2019.
- c. A 60-day extension is further warranted because Purdue and its counsel have holiday and family obligations during the November and December holidays.

WHEREFORE, Purdue respectfully requests that an order be entered extending the time to file a petition for a writ of certiorari for 60 days, to and including Friday, February 7, 2020.

Dated: November 21, 2019

Respectfully submitted,

/s/ Jennifer L. Swize

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