

January 3, 2021

VIA ECF

Scott S. Harris, Esq.
Clerk of the Court
Supreme Court of the United States One First Street, N.E.
Washington, D.C. 20543

Re: *Servotronics, Inc. v. Rolls-Royce PLC and The Boeing Company*, Docket No. 20-794

Dear Mr. Harris:

The undersigned, counsel of record for petitioner Servotronics, Inc., in the above-referenced matter, objects to the motion by respondents for an extension of time to file a brief in opposition to the petition for a writ of certiorari on the grounds that there are compelling circumstances that necessitate a speedy ruling on the petition and requiring respondents to proceed in a timely manner would not result in a hardship or prejudice for respondents.

In this matter, Servotronics is asking the Supreme Court to resolve a clear split among the Circuit Courts of Appeals on the issue of whether the discretion of federal district courts to assist in gathering evidence for use in a “foreign or international tribunal” granted by 28 U.S.C. § 1782(a) encompasses private commercial arbitral tribunals. Indeed, this split of authority is reflected in opposite results reached by the Fourth and Seventh Circuits in litigation involving the single arbitration proceeding that is the subject of the pending petition.¹

The Court interpreted Section 1782(a) in only one case, *Intel Corp. v. Advanced Micro Devices*, 542 U.S. 241 (2004), which did not involve a private arbitration. In the more than sixteen years that have elapsed since the *Intel* decision, the issue of whether Section 1782 applies to private arbitrations has been addressed in published opinions issued by five Circuit Courts of Appeals and is the subject of cases pending before two others. Servotronics is the first litigant to request Supreme Court review, even though it is a significant issue with far-reaching impact.

By their nature, arbitral proceedings such as the one pending in England to resolve a commercial dispute between Servotronics and Rolls-Royce underlying the current petition are of limited duration, often on schedules that are far shorter than the amount of time required to litigate the Section 1782 issue through appeal and obtain Supreme Court review and with limited resources to do so. As a result, an unknown number of similarly-situated litigants have been and are being thwarted in their attempts to litigate the Section 1782 issue fully before such issue was or will be rendered moot.

¹ *Servotronics, Inc. v. Boeing Co.*, 954 F.3d 209 (4th Cir. 2019), and *Servotronics, Inc. v. Rolls-Royce PLC*, 975 F.3d 689 (7th Cir. 2020), the latter of which is the subject of the pending petition.

Scott S. Harris, Esq.
January 3, 2021
Page 2

Indeed, the arbitral tribunal presiding over the dispute between Servotronics and Rolls-Royce is moving toward a ten-day hearing, currently scheduled for May 10, 2021. Servotronics is requesting that the hearing be rescheduled for the fall of 2021 so that it may be held in person and Rolls-Royce is opposed to that request. Thus, in order to avoid the potential that this unsettled issue may not reach the Supreme Court again in the near future, it is essential that the petition in this matter receive the consideration of the Court without delay.

While there is an urgent need to have the petition in this matter proceed on schedule, respondents have no legitimate reason for delay. Counsel for Rolls-Royce and Boeing have been actively involved in the lawsuit that forms the basis for the Seventh Circuit decision on which review is sought and in the earlier lawsuit that led to the Fourth Circuit's contradictory conclusion and thus are well aware of all potential arguments to be raised in connection with the pending petition for certiorari. Furthermore, respondents' cited reason for seeking delay – notice by an unnamed third party of an intention to file an *amicus curiae* brief – reveals that respondents do not need additional time to prepare their arguments in response to the petition. Supreme Court Rule 15 provides that respondents may file a “brief in opposition to a petition for a writ of certiorari,” not a brief responding to every argument that interested third parties may lodge for or against a petition as *amici curiae*.

Based on the compelling need for a speedy ruling on the petition, it is respectfully requested that respondents' motion for an extension of time to file their brief in opposition be denied.

Respectfully submitted,



Stephen R. Stegich
SRS/br

cc: Scott P. Martin, Esq.
Larry S. Kaplan, Esq.