

IN THE SUPREME COURT OF THE UNITED STATES

No. 21-1043

ABITRON AUSTRIA GMBH, ET AL., PETITIONERS

v.

HETRONIC INTERNATIONAL, INC.

ON WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

MOTION OF THE UNITED STATES FOR LEAVE TO PARTICIPATE
IN ORAL ARGUMENT AS AMICUS CURIAE, FOR DIVIDED ARGUMENT,
AND FOR ENLARGEMENT OF TIME FOR ARGUMENT

Pursuant to Rule 28 of the Rules of this Court, the Solicitor General, on behalf of the United States, respectfully moves that the United States be granted leave to participate in the oral argument in this case; that the time allotted for oral argument be enlarged to 70 minutes; and that the time be allotted as follows: 25 minutes for petitioners, 15 minutes for the United States, and 30 minutes for respondent. Petitioners and respondent both consent to this motion.

This case presents the question whether and under what circumstances a plaintiff may obtain relief under Sections 32(1)(a) and 43(a)(1)(A) of the Lanham Act for uses of a trademark that occurred outside the United States. See 15 U.S.C. 1114(1)(a), 1125(a)(1)(A). The United States has filed a brief as amicus curiae supporting neither party. Although the government's position is not fully aligned with that of either petitioners or respondent, it appears to be more closely aligned, both legally and practically, with that of petitioners. The proposed allocation of argument time reflects that assessment.

The United States has a substantial interest in the resolution of the question presented because it concerns the scope of liability for infringing a trademark that is registered with the United States Patent and Trademark Office (USPTO). See 15 U.S.C. 1114(1)(a). The parties' arguments in this case also implicate international trademark-related agreements to which the United States is a signatory. See, e.g., Pet. Br. 27-29. In addition, the government has an interest in the proper application of the presumption against extraterritorial application of U.S. law. At the Court's invitation, the United States filed a brief as amicus curiae at the petition stage of this case.

The United States has previously presented oral argument as amicus curiae in cases concerning the presumption against extraterritorial application of U.S. law. See, e.g., WesternGeco LLC v. ION Geophysical Corp., 138 S. Ct. 2129 (2018); RJR Nabisco,

Inc. v. European Cmty., 579 U.S. 325 (2016). And it has presented oral argument as amicus curiae in prior cases involving the interpretation of U.S. trademark laws. See, e.g., B & B Hardware, Inc. v. Hargis Indus., Inc., 575 U.S. 138 (2015); POM Wonderful LLC v. Coca-Cola Co., 573 U.S. 102 (2014). Oral presentation of the views of the United States would materially assist the Court in its consideration of this case.

Respectfully submitted.

ELIZABETH B. PRELOGAR
Solicitor General
Counsel of Record

JANUARY 2023