

IN THE SUPREME COURT OF THE UNITED STATES

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No. \_\_\_\_

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ANIMAL SCIENCE PRODUCTS, INC., THE RANIS COMPANY, INC., APPLICANTS,

v.

HEBEI WELCOME PHARMACEUTICAL CO. LTD., NORTH CHINA PHARMACEUTICAL  
GROUP CORPORATION.

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**APPLICATION FOR AN EXTENSION OF TIME  
WITHIN WHICH TO FILE A PETITION FOR CERTIORARI  
TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT**

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Pursuant to Rules 13.5 and 30.2 of this Court, counsel for Animal Science Products, Inc. and The Ranis Company, Inc. respectfully requests a 60-day extension of time, to and including March 20, 2022, within which to file a petition for a writ of certiorari to review the judgment of the United States Court of Appeals for the Second Circuit in this case. The Court of Appeals entered judgment on August 10, 2021, App., *infra*, 1a-66a, and denied a timely petition for rehearing on October 21, 2021, App. 78a. Unless extended, the time for filing a petition for a writ of certiorari will expire on January 19, 2022. The jurisdiction of this Court would be invoked under 28 U.S.C. 1254(1).

1. This case arises from the Second Circuit's judgment on remand from this Court's decision in *Animal Science Products, Inc. v. Hebei Welcome Pharmaceutical Co.*, 138 S. Ct. 1865 (2018). As it returns to this Court, the case now presents the question, among others, whether the doctrine of international comity authorizes a U.S. court to reinterpret the extraterritorial reach of the antitrust laws on a case-by-case basis, depending on how the circumstances of the case at hand weigh in a ten-factor interest-balancing analysis.

2. This case concerns a conspiracy among Chinese vitamin C companies to fix prices and limit output for export to the United States. Throughout the litigation, Respondents have all but conceded that they did, in fact, agree to fix prices and limit output as Applicants alleged. Respondents instead urged dismissal on international comity grounds, relying on an amicus brief filed by the Chinese Ministry of Commerce at the motion-to-dismiss stage in which the Ministry asserted that Chinese law required Respondents' conduct. The district court considered the Ministry's brief, but conducted an independent review of Chinese law and concluded that Respondents' conduct was not legally required. In 2013, a jury in the Eastern District of New York returned a verdict in Applicants' favor.

On appeal, the Court of Appeals initially held that the district court should have afforded conclusive deference to the Ministry's proposed interpretation of Chinese law, and—balancing a variety of discretionary factors—concluded that the district court should have abstained from exercising its otherwise valid jurisdiction on international comity grounds. *In re Vitamin C Antitrust Litig.*, 837 F.3d 175 (2d Cir. 2016).

This Court granted certiorari, vacated, and remanded. 138 S. Ct. at 1875. The Court instructed the Court of Appeals on remand to interpret Chinese law by evaluating “the materials identified by the District Court” including all of the “shortcomings the District Court identified in the Ministry's position.” *Id.* at 1875.

On remand, the Court of Appeals once again vacated the jury verdict and remanded with instructions to dismiss. This time, the Court of Appeals held—contrary to this Court's decision in *F. Hoffman-La Roche Ltd. v. Empagran S.A.*, 542 U.S. 155 (2004)—that “prescriptive” international comity requires case-by-case statutory interpretation in the antitrust context. App. 13a & n.8. According to the Second Circuit, whether the Sherman Act reaches extraterritorial

conduct is *not* ultimately governed by any statutory text, but instead depends upon a discretionary ten-factor interest-balancing exercise that this Court has already rejected as “too complex to prove workable.” *Empagran*, 542 U.S. at 165. Absent further review, the Second Circuit’s decision vests courts with virtually unbounded discretion to rewrite duly enacted statutes based upon judicial speculation about foreign policy.

3. Counsel for Applicants respectfully requests a 60-day extension, to and including March 20, 2022, within which to file a petition for certiorari in this case. The undersigned recently returned from a three-week trial in the United States District Court for the Western District of Virginia (No. 3:17-CV-72) and, after a planned family vacation over the upcoming holidays, has several briefing deadlines during the week preceding the current deadline to file a petition for certiorari. In addition, the associate with principal responsibility for the appellate stage of this case has recently returned from a parental leave that began within days of the Court of Appeals’ August 10, 2021 decision. Applicants’ counsel accordingly require more time to prepare and print a petition for certiorari in this case.

Respectfully submitted.

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