

No. _____

**In the
Supreme Court of the United States**

SLACK TECHNOLOGIES, LLC (F/K/A SLACK TECHNOLOGIES, INC.), *ET AL.*,

Applicants,

v.

FIYYAZ PIRANI,

Respondent.

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

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APPLICATION FOR AN EXTENSION OF TIME

TO THE HONORABLE ELENA KAGAN, ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES AND CIRCUIT JUSTICE FOR THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT:

Under Rules 13.5, 22, and 30.3 of this Court, applicants Slack Technologies, LLC (f/k/a Slack Technologies, Inc.) et al.¹ respectfully request a 30-day extension of time—to and including August 31, 2022—within which to file a petition for a writ of certiorari to the United States Court of Appeals for the Ninth Circuit. The court of appeals issued its opinion on September 20, 2021. That opinion, *Pirani v. Slack Technologies, Inc.*, 13 F.4th 940 (9th Cir. 2021), is attached as Exhibit A. The Ninth Circuit denied applicants’ timely petition for panel rehearing and rehearing en banc on May 2, 2022. The order denying rehearing is unreported, and a copy is attached as Exhibit B. Unless extended, the deadline to file a petition for a writ of certiorari is August 1, 2022. This application is timely filed. *See* S. Ct. Rule 30.2. This Court’s jurisdiction will be invoked under 28 U.S.C. § 1254(1).

1. This is an appeal from an order denying, in part, a motion to dismiss in a securities case. The case presents an important and recurring question: Who is

¹ The full list of applicants is: Slack Technologies, LLC (f/k/a Slack Technologies, Inc.), Stewart Butterfield, Allen Shim, Brandon Zell, Andrew Braccia, Edith Cooper, John O’Farrell, Chamath Palihapitiya, Graham Smith, Social+Capital Partnership GP II L.P., Social+Capital Partnership GP II Ltd., Social+Capital Partnership GP III L.P., Social+Capital Partnership GP III Ltd., Social+Capital Partnership Opportunities Fund GP L.P., Social+Capital Partnership Opportunities Fund GP Ltd., Accel Growth Fund IV Associates L.L.C., Accel Growth Fund Investors 2016 L.L.C., Accel Leaders Fund Associates L.L.C., Accel Leaders Fund Investors 2016 L.L.C., Accel X Associates L.L.C., Accel Investors 2009 L.L.C., Accel XI Associates L.L.C., Accel Investors 2013 L.L.C., Accel Growth Fund III Associates L.L.C., AH Equity Partners I L.L.C., and A16Z Seed-III LLC.

eligible to sue under Sections 11 and 12(a)(2) of the Securities Act of 1933? For years, the answer was clear. Every court of appeals to consider the question held that the only proper plaintiffs under Section 11 were those who could prove they bought shares registered under the registration statement they claimed was misleading. *E.g.*, *Krim v. pcOrder.com, Inc.*, 402 F.3d 489 (5th Cir. 2005); *Barnes v. Osofsky*, 373 F.2d 269 (2d Cir. 1967). Here, even though the plaintiff admits he cannot prove that he bought such shares, the district court declined to dismiss his claims. The court reasoned that although the text of Section 11 might well require dismissal in other factual contexts, that same text should have a different meaning and require a different result here, where the defendant issuer went public through a direct listing rather than some other type of offering. The district court certified its decision for interlocutory review, and the Ninth Circuit granted applicants permission to appeal. A divided panel of the Ninth Circuit then affirmed, agreeing with the district court that the purpose of the Securities Act requires courts to give its words a different meaning in a direct-listing case than in all other cases. Judge Miller dissented, explaining that he would follow the settled interpretation of Section 11 adopted by every court of appeals to consider the issue, rather than develop a new interpretation applicable only to direct-listing cases based on policy concerns.

2. The rule adopted by the Ninth Circuit—that *any* buyer of securities may sue under Sections 11 and 12(a)(2), even if that buyer did not purchase securities that are the subject of the supposedly misleading registration statement and prospectus—creates a conflict not only with decisions from eight courts of appeals, including the

Ninth Circuit itself, but also with decisions of this Court. For example, this Court has held that the same statutory language cannot be given a different meaning in different factual contexts. *Clark v. Martinez*, 543 U.S. 371, 382, 386 (2005).

3. This case is ideal for resolving the questions that will be presented. Because the Ninth Circuit is the only court of appeals to have abandoned the requirement that those suing under Section 11 trace their shares to the registration statement they challenge, plaintiffs who can't meet that requirement will not want to file suit anywhere else. Nor will they need to, given the Securities Act's liberal venue and service-of-process provisions. 15 U.S.C. § 77v(a); *S.E.C. v. Ross*, 504 F.3d 1130, 1140 (9th Cir. 2007). The conflict between the decision below and the many decisions enforcing the tracing requirement will persist and encourage forum shopping on the part of plaintiffs unless and until this Court grants review.

4. A 30-day extension to file a petition for a writ of certiorari is necessary to allow counsel for applicants to prepare and file a petition presenting these important questions to this Court, in light of several significant professional obligations counsel have in matters pending before this Court and other courts, including (1) a merits-stage amicus brief due to be filed in this Court on July 26; (2) a certiorari-stage reply due to be filed in this Court on August 17; (3) a petition for rehearing en banc due to be filed in the Ninth Circuit on July 27; (4) an opening brief due to be filed in the Ninth Circuit on August 5; (5) an answering brief due to be filed in the Ninth Circuit on August 8; (6) another answering brief due to be filed in the Ninth Circuit on August 12; and (7) another answering brief due to be filed in the

Third Circuit on August 17. No party would be prejudiced by the requested extension. The applicants and plaintiff continue to work together on discovery in connection with the ongoing litigation in the district court.

Accordingly, good cause exists for this application, and applicants respectfully request a 30-day extension of time within which to file a petition for a writ of certiorari, to and including August 31, 2022.

Dated: July 13, 2022

Respectfully submitted,

/s/ Michael D. Celio

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RULE 29.6 CORPORATE DISCLOSURE STATEMENT

Under Rule 29.6, applicants make the following disclosures.

Slack Technologies, LLC (f/k/a Slack Technologies, Inc.) is a wholly owned subsidiary of Salesforce, Inc., which is publicly traded (NYSE:CRM).

The other entity applicants (Social+Capital Partnership GP II L.P., Social+Capital Partnership GP II Ltd., Social+Capital Partnership GP III L.P., Social+Capital Partnership GP III Ltd., Social+Capital Partnership Opportunities Fund GP L.P., Social+Capital Partnership Opportunities Fund GP Ltd., Accel Growth Fund IV Associates L.L.C., Accel Growth Fund Investors 2016 L.L.C., Accel Leaders Fund Associates L.L.C., Accel Leaders Fund Investors 2016 L.L.C., Accel X Associates L.L.C., Accel Investors 2009 L.L.C., Accel XI Associates L.L.C., Accel Investors 2013 L.L.C., Accel Growth Fund III Associates L.L.C., AH Equity Partners I L.L.C., and A16Z Seed-III LLC) do not have any parent corporations, and no publicly held companies own more than 10% of their stock.