

No. _____

In the Supreme Court of the United States

DIAMOND J. WHOLESALE, LLC,
d.b.a. GABSONS NOVELTIES,
PETITIONER,

v.

TOP TOBACCO, L.P.,
REPUBLIC TECHNOLOGIES (NA), LLC,
REPUBLIC TOBACCO, L.P.,
RESPONDENTS.

PETITIONER'S APPLICATION FOR EXTENSION OF TIME
TO FILE PETITION FOR A WRIT OF CERTIORARI

To: The Honorable Clarence Thomas, Associate Justice of the Supreme Court and
Circuit Justice for the Eleventh Circuit

Pursuant to Title 28, United States Code, Section 2101(c) and Supreme Court
Rule 13.5, Petitioner Diamond J. Wholesale, LLC, respectfully requests that the time
to file a Petition for a Writ of Certiorari in this case be extended for 60 days, to and
including, January 19, 2024.

Basis for Jurisdiction

The district court had original jurisdiction over this civil action pursuant to 15
U.S.C. §§ 1121(a) and 1124–25 and 28 U.S.C. §§ 1338(b) and 1376(a). The district
court entered partial summary judgment as to the liability of Petitioner. The
Eleventh Circuit affirmed the district court's judgment in an unpublished opinion
filed on August 22, 2023. App. 1a–6a. This Court has the power to grant or deny this

motion pursuant to 28 U.S.C. § 2101(c), and it will have jurisdiction to review the Eleventh Circuit's judgment under 28 U.S.C. § 1254(1).

Judgment to be Reviewed and Opinion Below

The Eleventh Circuit's panel opinion is unpublished but available at *Top Tobacco, L.P. v. Novelties*, No. 22-10926, 2023 WL 5372541 (11th Cir. Aug. 22, 2023), reprinted on pages 1a–6a of the appendix.

Reasons for Granting an Extension

Good cause exists for the extension request. Lead counsel, Kurt Kastorf, was recently retained by Petitioner Raj Solomon to pursue a petition for a writ of certiorari. The United States Court of Appeals for the Eleventh Circuit recently upheld a verdict finding Mr. Solomon individually liable for \$11 million in statutory damages for a violation of the Lanham Act, and Mr. Solomon is facing bankruptcy. After reviewing his case, Mr. Kastorf believes there is a bona fide issue worthy of certiorari regarding inconsistent standards among the Courts of Appeal governing the imposition of individual liability under the Lanham Act.

Although Mr. Kastorf has assisted on numerous filings in this Court both as an appellate attorney at the United States Department of Justice and as an associate and then counsel affiliated with the Supreme Court practice of a large Washington, D.C.-based firm, he has not served as lead counsel on a case in this Court and had not previously moved for admission. He is currently seeking admission in this Court but does not believe the Court will grant his motion in time for him to request a

motion for extension more than ten days from the due date of Mr. Solomon's petition, per Rule 13.

In addition to Mr. Kastorf's pending admission to the Court, Mr. Kastorf has had pressing deadlines in other cases. During the past week, Mr. Kastorf was on a trial calendar in the State Court of Gwinnett County, Georgia, and had briefs due both in the United States District Court for the Northern District of Georgia and in the State Court of Fulton, County, Georgia. Between now and Mr. Solomon's deadline to file his petition, Mr. Kastorf has primary drafting responsibility for a merits brief in the Georgia Court of Appeals due Wednesday, November 15, and a brief in support of a motion for new trial in the State Court of Fulton County, Georgia due Friday, November 17. In addition, this weekend his family is observing Diwali, and his son's soccer team (for which Mr. Kastorf is the team manager) is competing in its postseason tournament.

Petitioner respectfully requests that an order be entered extending the time to file the petition for a writ of certiorari to and including January 19, 2023.

Submitted on November 10, 2023.

/s/ Jessica Graf
Jessica Graf
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