

No. 23A\_\_

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IN THE  
**Supreme Court of the United States**

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PURDUE PHARMA L.P. AND PURDUE PHARMACEUTICALS  
L.P., *Petitioners*  
v.

COLLEGIUM PHARMACEUTICAL, INC., *Appellee-Respondent*

KATHERINE K. VIDAL, UNDERSECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY  
AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE, *Intervenor-  
Respondent*

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**APPLICATION OF PURDUE PHARMA L.P. AND PURDUE  
PHARMACEUTICALS L.P. FOR EXTENSION OF TIME TO  
FILE PETITION FOR A WRIT OF CERTIORARI TO  
THE U.S. COURT OF APPEALS FOR THE FEDERAL CIRCUIT**

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To the Honorable John G. Roberts, Jr., Chief Justice of the Supreme Court  
and Circuit Justice for the Federal Circuit:

Pursuant to Supreme Court Rules 13.5, 22, and 30, Applicants Purdue  
Pharma L.P. and Purdue Pharmaceuticals L.P. (collectively, “Purdue”) respectfully  
request a 30-day extension, up to and including Thursday, March 21, 2024, for the  
time period for filing a petition for a writ of certiorari to the U.S. Court of Appeals  
for the Federal Circuit, seeking review of that court’s decision in *Purdue Pharma  
L.P. v. Collegium Pharmaceutical, Inc.*, No. 2022-1482 (Fed. Cir. Nov. 21, 2023). In  
that decision, the Federal Circuit addressed a novel question of statutory  
interpretation regarding the statutory time periods set forth in 35 U.S.C.  
§ 326(a)(11) for the Patent Trial and Appeal Board (“PTAB”) at the U.S. Patent and

Trademark Office to issue a final written decision in a post-grant review proceeding, and held that the PTAB may issue its final written decision beyond the statutory deadlines set by Congress in § 326(a)(11). The Federal Circuit issued its decision on November 21, 2023. A copy of that decision is attached as Exhibit A. The jurisdiction of this Court in this case will be invoked under 28 U.S.C. § 1254(1), and the time to file a petition for a writ of certiorari will otherwise expire today, Tuesday, February 20, 2024.

Good cause and extraordinary circumstances exist to consider this application and grant the extension. *See* S. Ct. R. 13.5. A petition, should Purdue file one, would involve important questions concerning the proper inquiry for interpreting whether statutory deadlines are jurisdictional or merely hortatory, the proper interpretation of 35 U.S.C. § 326(a)(11), and the scope of an agency's power to treat a statutory deadline set by Congress as being merely hortatory. Upon further evaluation of these important statutory questions concerning agency authority, and after much deliberation about preparing a petition for this Court, Purdue respectfully seeks a brief additional amount of time to consider filing a petition. While Purdue was deliberating these important issues, and within the time period that marked 10 days prior to Rule 13.5's deadline, Purdue's General Counsel and Chief Patent Counsel were actively involved in preparing for and participating in a trial the week of February 12, 2024, including on February 10, 2024. *See* S. Ct. R. 13.5.

WHEREFORE, Purdue respectfully requests that an order be entered extending the time to file a petition for a writ of certiorari for 30 days, to and including March 21, 2024.

Dated: February 20, 2024

Respectfully submitted,



Jennifer L. Swize

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