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In The
Supreme Court of the United States

ALEXANDER BAYONNE STROSS,

Applicant,

v.

ZILLOW, INC. and TRULIA, LLC,

Respondents.

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

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Counsel for Applicant

March 1, 2024

PARTIES TO THE PROCEEDINGS

Applicant Alexander Bayonne Stross was the plaintiff and appellant in the proceedings below.

Respondents Zillow, Inc. and Trulia, LLC, were the defendants and the appellees in the proceedings below.

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

To the Honorable Elena Kagan Associate Justice of the Supreme Court of the United States and Circuit Justice for the Ninth Circuit:

Pursuant to 28 U.S.C. § 2101(c) and Rules 13.5, 22, and 30.3 of the Rules of this Court, applicant Alexander Bayonne Stross (“Stross”) respectfully requests a 60-day extension of time, up to and including June 1, 2024, within which to file a petition for a writ of certiorari in this case to review the judgment of the United States Court of Appeals for the Ninth Circuit. The Ninth Circuit entered its judgment on December 8, 2023 (the court of appeals’ opinion, reported at DE 41, is attached hereto as Exhibit A).

Stross filed a Petition for a Rehearing En Banc on December 22, 2023, filed at DE 42 and attached hereto as Exhibit B. On January 3, 2024. The Ninth Circuit denied Stross’ Petition. (DE 51, attached hereto as Exhibit C.)

The petition for a writ of certiorari would be due on April 2, 2024. This application is made 25 days before that date. The application could not be made earlier because of counsel’s busy docket including hearings

in other matters. Undersigned counsel is the only attorney at this firm admitted to the bar of this court and requests the Honorable Justice Kagan accept this petition and grant the relief requested despite the delay in filing.

1. The question to be presented by the petition is whether the Ninth Circuit’s requirement that plaintiff prove that a defendant commit “volitional conduct” in the form of an affirmative act to recover for direct copyright infringement violates the longstanding rule that either an act *or an omission to act* satisfies—for purposes of proximate causation—the “volitional conduct” requirement.

2. The 60-day extension to file a certiorari petition is necessary because undersigned counsel needs the additional time to prepare the petition and appendix, and because of other, previously engaged matters, including: (1) oral argument on April 1, 2024 in *VPR Brands, LP v. Shenzhen Weiboli Technology Co. Ltd.*, No. 2023-1544, before the Federal Circuit Court of Appeals; (2) preparation of oppositions to four motions to dismiss on March 29, 2024 in *Southwestern MFG LLC v. Menard, Inc., et al.* before the United States District Court for the Southern District of Florida, No. 0:23-cv-61687-WPD, where the

undersigned is lead counsel; (3) and Depositions on March 20 and 21, 2024 in *Southwestern MFG LLC v. Wilmar, LLC and Advance Stores Company Incorporated dba Advance Auto Parts*; No. 2:22-cv-08541-MWF before the United States District Court for the Central District of California, where the undersigned is lead counsel.

Accordingly, applicant respectfully requests a 60-day extension of time, up to and including June 1, 2024, within which to file a petition for a writ of certiorari in this case to review the judgment of the United States Court of Appeals for the Ninth Circuit.

DATED: March 6, 2024

Respectfully submitted,

/s/ Joel B. Rothman

JOEL B. ROTHMAN

Counsel of Record

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CERTIFICATE OF SERVICE

The undersigned does hereby certify that on March 6, 2024, I caused the forgoing to be served by the method indicated upon the following:

BY EMAIL:

Ian B. Crosby
Susman Godfrey, L.L.P.
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/s/ Joel B. Rothman

JOEL B. ROTHMAN