

No. 23A__

IN THE
Supreme Court of the United States

RONALD RAGAN, JR.,

Petitioner,

v.

BERKSHIRE HATHAWAY AUTOMOTIVE, INC.,

Respondent.

APPLICATION TO EXTEND THE TIME TO FILE A PETITION FOR A
WRIT OF CERTIORARI FROM MAY 2, 2024, TO JULY 1, 2024

To the Honorable Brett M. Kavanaugh,
Circuit Justice for the Eighth Circuit:

Pursuant to 28 U.S.C. § 2101(c) and Supreme Court Rules 13.5, 22, and 30.3, Petitioner Ronald Ragan, Jr.,¹ respectfully requests that the time to file a petition for a writ of certiorari be extended 60 days from May 2, 2024, up to and including July 1, 2024.

The U.S. Court of Appeals for the Eighth Circuit issued its opinion on February 2, 2024. App., *infra*. Without an extension, a petition would be due May 2, 2024. This application is being filed at least 10 days prior. See Sup. Ct. R. 13.5. The jurisdiction of this Court would be invoked under 28 U.S.C. § 1254. For the reasons stated below, the timeframe to submit a petition should be extended by 60 days.

¹ Mr. Ragan is a natural personal.

Background of Issue

1. Petitioner Ronald Ragan, Jr., distilled his decades of car-sales experience and expertise into creating a document called the “Guest Sheet” that was designed to help car dealerships and salespersons sell cars. The Sheet consists of questions, prompts, headings, fill-in-the-blank lines, and checkboxes. In 1999, the United States Copyright Office issued a copyright certificate of registration to Petitioner for his Guest Sheet. App. at 2.

2. The Eighth Circuit affirmed the District Court’s dismissal on the grounds that Petitioner’s copyright-registered Guest Sheet was not copyrightable as a matter of law. See generally App. In doing so, the Eighth Circuit relied centrally upon the Ninth Circuit’s Bibbero case and other Circuits’ decisions applying the so-called Blank Form Rule. See App. at 5.

3. Notably, there is a split regarding the Ninth Circuit’s Bibbero standard for copyrightability. See Utopia Provider Sys. v. Pro-Med Clinical Sys., L.L.C., 596 F.3d 1313, 1320 n.17 (11th Cir. 2010) (“The majority of circuits have rejected Bibbero’s bright-line approach.”). Moreover, the Ninth Circuit’s Bibbero decision and the so-called Blank Form Rule have been criticized for, *inter alia*, being incompatible with this Court’s Feist decision and being incompatible with the Copyright Act’s statutory text.

Reasons for Granting an Extension of Time

4. Several reasons justify an extension request here—**(1)** demands upon and disruptions upon counsel; **(2)** desire to find additional counsel with more Supreme Court experience willing and able to work on the case *pro bono*; **(3)** the fair prospect that this Court grants cert given the acknowledged split on the issues; and **(4)** the issues' importance.

5. The 90-day period leading up to the deadline to file a petition for a writ of certiorari has been very busy for Petitioner's nonprofit counsel. The heavier than usual press of business has included, *inter alia*, preparing for and attending several oral arguments before various Courts of Appeals; researching and preparing several appellate briefs and filings, including a time-sensitive filing in a highly complex wrongful-death case relating to the estates of many deceased children; and work in various district courts. A petition is a substantial undertaking and Petitioner's counsel request the 60-day extension of time to give a petition the time and attention it deserves.

6. In addition to the heavy press of business, Petitioner's nonprofit counsel had religious obligations and unanticipated personal health disruptions during the pertinent time period. Counsel had to attend to pre-existing religious obligations during the Lent and Easter period, during the 90-day period leading up to the deadline to file a Petition. Additionally, unexpected illness of counsel proved highly disruptive during the 90-day period. These observances and disruptions further justify the extension.

7. In addition, Petitioner's nonprofit counsel has been attempting to find additional counsel with more Supreme Court experience to assist with or handle the petition. Because the client is of modest and limited means, Petitioner's nonprofit counsel has been attempting to find additional counsel who would be willing to assist on this matter on a pro bono, or significantly reduced basis. The 60-day extension of time would permit Petitioner's nonprofit counsel to continue those efforts in seeking more experienced Supreme Court counsel.

8. Furthermore, there's a fair prospect that this Court would grant cert here. There's an acknowledged Circuit split on the merits question of the so-called Blank Form Rule for copyrightability. See, e.g., Utopia Provider Sys. v. Pro-Med Clinical Sys., L.L.C., 596 F.3d 1313, 1320 n.17 (11th Cir. 2010). Moreover, the petition also implicates an unresolved Circuit-split on whether or not copyrightability presents a question of fact or a question of law.

9. These are issues of immense importance. The Circuit Courts have been using a so-called Blank Form Rule to foreclose copyright protection (even to works that have been registered by the Copyright Office as copyrightable) under a rule that this Court has never adopted. Notably, this so-called blank form rule is based on a misreading of this Court's opinion in Baker v. Seldon, 101 U.S. 99 (1879), and, furthermore, this so-called blank form rule is incompatible with this Court's Feist standard of copyrightability, see Feist Publ'ns, Inc. v. Rural Tel. Serv. Co., 499 U.S. 340, 345 (1991).

10. Finally, these issues surrounding copyrightability of less voluminous works are of immense importance in age when ordinary Americans are creating copyrighted works at an unprecedented scale—when they Tweet, make Instagram posts, *etc.* Moreover, in an age of generative AI and Open AI’s ChatGPT, it is important to be clear that the exercise of the human mind in creating material—not the volume of output (as the Eighth Circuit thought)—that is determinative with respect to copyrightability.

11. For these reasons, Petitioner respectfully requests a 60-day extension of time.

Conclusion

For the foregoing reasons, the time to file a petition for a writ of certiorari should be extended for 60 days, up to and including July 1, 2024.

Respectfully submitted,

/s/ Andrew Grimm

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