

No. 25A-____

IN THE
Supreme Court of the United States

R.J. REYNOLDS VAPOR COMPANY,

Applicant,

v.

ALTRIA CLIENT SERVICES LLC,

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 FEDERAL CIRCUIT**

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

1. Pursuant to Supreme Court Rules 13.5, 22, and 30, Applicant R.J. Reynolds Vapor Company¹ respectfully requests a 60-day extension of time, up to and including Friday, August 8, 2025, to file a petition for a writ of certiorari to the U.S. Court of Appeals for the Federal Circuit, seeking review of that court’s December 19, 2024 decision in *Altria Client Services LLC v. R.J. Reynolds Vapor Co.*, No. 23-1546,

¹ Pursuant to Supreme Court Rule 29.6, Applicant provides the following corporate disclosure statement: Applicant R.J. Reynolds Vapor Company is a direct, wholly owned subsidiary of RAI Innovations Company; RAI Innovations Company is a direct, wholly owned subsidiary of Reynolds American Inc.; and Reynolds American Inc. is an indirect, wholly owned subsidiary of British American Tobacco, p.l.c., a publicly traded company.

2024 WL 5165456 (Fed. Cir. Dec. 19, 2024). The decision below is attached as Appendix A. The jurisdiction of this Court will be invoked under 28 U.S.C. § 1254.

2. Applicant timely petitioned for panel and en banc rehearing. The panel and en banc court both denied rehearing on March 10, 2025. The order denying Applicant's combined petition for panel and en banc rehearing is attached as Appendix B.

3. The time to file a petition for a writ of certiorari will otherwise expire on June 9, 2025. This Application is timely because it has been filed more than ten days prior to the date on which the time for filing is due to expire.

4. Applicant has good cause for an extension of time. This petition involves complex and important issues relating to patent damages under 35 U.S.C. § 284. Those issues include whether the Federal Circuit's "built-in apportionment" doctrine is contrary to this Court's decision in *Garretson v. Clark*, 111 U.S. 120 (1884), which held that a patentee "must in every case give evidence tending to separate or apportion ... between the patented feature and the unpatented features." *Id.* at 121. Given its experience and expertise in this area, Applicant's undersigned counsel is well positioned to evaluate and prepare a petition that will assist this Court in reviewing the case. The quality of any petition would greatly benefit from an extension of time to allow counsel to further develop the arguments in this case and to complete the requisite research and writing given the voluminous record from the case below—spanning months of pretrial discovery and motions practice, pretrial conferences, a five-day jury trial, and extensive post-trial motions practice. Beyond

these bases for good cause, Applicant's counsel also has several professional commitments during the time to file a petition for writ of certiorari. These include oral argument on May 12, 2025, in *Farchione v. R.J. Reynolds Tobacco Co.*, No. 2024-P-0659 (Mass. App. Ct.); and preparation of the appellate record appendix and opening brief in *Penza v. R.J. Reynolds Tobacco Co.*, No. 2079-CV-00508 (Hamden Cnty., Mass. Sup. Ct.) (notice of appeal filed Mar. 3, 2025); among other commitments.

WHEREFORE, Applicant respectfully requests that an order be entered extending the time to file a petition for a writ of certiorari for 60 days, up to and including August 8, 2025.

May 13, 2025

Respectfully submitted,

/s/ Jason T. Burnette
JASON T. BURNETTE
Counsel of Record
JONES DAY
1221 Peachtree Street NE
Atlanta, GA 30361
(404) 581-8724
jtburnette@jonesday.com

Counsel for Applicant