No. 25-

IN THE

Supreme Court of the United States

SHAHRIAR BEHNAMIAN,

Applicant, *pro se,*

v.

COKE MORGAN STEWART, in her official capacity as Under Secretary of Commerce for Intellectual Property and Acting Director of the United States Patent and Trademark Office; UNITED STATES PATENT & TRADEMARK OFFICE,

Respondent.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Federal Circuit

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APPLICATION FOR EXTENSION OF TIME TO FILE A PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

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May 16, 2025

APPLICATION FOR EXTENSION OF TIME TO FILE A PETITION FOR A WRIT OF CERTIORARI

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

Pursuant to 28 U.S.C. § 2101(c) and Rules 13.5, 22, and 30 of the Rules of this Court, Applicant Shahriar Behnamian, respectfully requests an extension of time to and including July 28, 2025, in which to file a petition for a writ of certiorari. With the requested sixty-day extension, the petition would be due on July 28, 2025. (The 60th day is Saturday, July 26, making the due date September 5. See Rule 30.1.) Unless an extension is granted, Applicant's deadline for filing the petition will be May 26, 2025. This application is timely because it is made at least ten days before the petition would be due. No prior application has been made in this case. In support of this request, Applicant states the following:

1. The United States Court of Appeals for the Federal Circuit issued a published opinion and entered judgment on February 26, 2025 (Exhibit A).

2. This Court has jurisdiction under 28 U.S.C. § 1254(1).

3. This case is a serious candidate for review. This case arises from a 5 day suspension of the Applicant based on discreet retaliation by his previous employer the United States Patent & Trademark (USPTO). The

Applicant was as a Primary Patent Examiner at the USPTO at time of suspension. Shortly after the suspension, the Applicant was forced to resign. He then submitted an Application for Registration to Practice Before the United States Patent and Trademark Office ("Patent Agent Application"), which then was denied based on his suspension at the USPTO prior to his constructive discharge.

4. The Applicant filed his complaint with the District Court of the United States in Eastern Virginia at the Alexandria, VA branch on September 10, 2021. The Applicant presented claims 35 U.S.C. § 32 and under Title VII of the Civil Rights Act of 1964, as amended.

5. The USPTO denied his Patent Agent Application by alleging lack of candor during the application process, believing that the Applicant had to disclose his suspension on his Patent Agent Application. However, the Applicant's his suspension during his tenure at the USPTO was not due to conduct involving dishonesty, fraud, misrepresentation, deceit, or for any violation of Federal or State Laws or Regulations, as questioned on the Patent Agent Application. Therefore, the Applicant was not required to answer in the positive, since his 5 day suspension was due to retaliation by his employer and an alleged misallocation of hours worked.

6. The Applicant never lied about or in any way intentionally misrepresented any of the hours he did or did not work. Even if his employer had correctly determined the Applicant's claimed hours worked, even then the issue would merely arise from unintentional misallocation. However, the USPTO incorrectly calculated the Applicant's hours worked with a faulty time tracking system that was known to issue inaccurate reporting repeatedly. Hence, this case arises in part under 35 U.S.C. § 32. During the processing of Applicant's Patent Agent Application, he presented arguments under 37 C.F.R. § 11.7(h)(4)(iii), but the USPTO alleged that this rule did not apply to the Applicant, alleging that the applicant was not suspended from his profession, as required.

7. The District Court and the Federal Circuit both blindly sided with the USPTO and wrongfully alleged that being a federal employee working at the USPTO as a Primary Patent Examiner does not qualify as a profession.

8. The Court of Appeals for the Federal Circuit has committed multiple errors and has set a wrong precedent for federal employees not being considered working professionals and their employment of serving the public not to be a profession.

9. Furthermore, the Applicant filed a claim based on discrete act retaliation, and another claim based on retaliatory constructive discharge,

both claims are brought under Title VII of the Civil Rights Act of 1964, as amended. The Applicant had a longstanding conflict with his supervisor's lack of knowledge of the scientific art in which the Applicant used to examine patent applications in, as a Primary Patent Examiner. On multiple occasions the Applicant had reported his supervisor to his 2nd in line of command supervisor, who was the Director of the technology center at USPTO. The last draw came when the Applicant submitted his leave request for time off of work for a short period of time to care for his pregnant wife.

10. The Applicant's supervisor knowing that the Applicant's wife was expecting to give birth in the coming 2 weeks, still denied the Applicant's request for leave and demanding that the Applicant fly from Hawaii to Washington, DC just to satisfy his reporting duty, even though other USPTO employees working from Hawaii were not asked to travel to the USPTO to satisfy their reporting duty.

11. The Applicant reported his supervisor to the Technology Center's multiple Directors and notified the Directors that his supervisor has discriminated against him and has denied the Applicant's leave request based on Family Medical Leave Act (FMLA). One of the Technology Center Directors promptly overrode the supervisor's denial of the leave request and granted the Applicant's leave request.

12. Shortly thereafter, the Applicant's hours worked were miscalculated by his supervisor and was accused of being Absent Without Leave (AWOL) and alleging that the Applicant had been paid for hours that he had not worked. The Applicant was consequently suspended for a period of 7 days, even though he was ordered a suspension of 5 days, without due process and a fair trial, even though the Applicant had proof that the supervisor had miscalculated his hours worked on purpose as to get him suspended, because the Applicant had reported the supervisor's unlawful action to the Technology Center Directors.

13. The Court of Appeals for the Federal Circuit has yet committed another error in determining the United States District Court's obligation when handling *pro se* plaintiffs and the advice and directions they provide to those *pro se* plaintiff. The District Court denied the Applicant's requests for a hearing and discovery, and the District Court's Clerk wrongfully advised and confirmed to the Applicant of the procedure and then District Court punished the Applicant for the following the Clerk's advice and confirmations. This potentially has set a wrong precedent for *pro se* plaintiffs and litigants and putting the *pro se* litigants at a disadvantage when compared to monetarily more fortunate litigants represented by counsel that may enjoy the financial freedom of hiring a counsel to represent them. The District Court

has effectively set a precedent for the courts to favor the rich over the public servants of the federal government when it comes to protecting them from harm and abuse by denying the Applicant, who was abused and financially harmed as a federal employee, his right to a proper prosecution of his complaint.

14. This application seeks to accommodate Applicant's legitimate needs. The *pro se* Applicant runs his own startup company that requires constant attention. The Applicant found out yesterday that 40 copies of the petition in booklet form are needed when filing his petition. The requested extension is necessary for Applicant to fully familiarize himself with the sizeable Supreme Court Rules, and the relevant case law. In light of the Applicant's other obligations—which include other management of company work and caring for his children, the Applicant would not be able adequately to complete these tasks by May 26, 2025. A sixty-day extension would ensure that the Applicant is able to produce a petition that fully and fairly presents the issues to this Court.

WHEREFORE, for the foregoing reasons, the application should be granted and the time for filing a petition for writ of certiorari should be extended by 60 days,

to and including July 28, 2025.

Respectfully submitted.

/Shahriar Behnamian/ May 16, 2025

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