

No. A

IN THE
Supreme Court of the United States

TIME WARNER CABLE, INC.; TIME WARNER CABLE, LLC; TIME WARNER
ENTERTAINMENT COMPANY, L.P.; TIME WARNER ENTERTAINMENT-
ADVANCE/NEWHOUSE PARTNERSHIP; TWC COMMUNICATIONS LLC; and
TIME WARNER CABLE INFORMATION SERVICES (KANSAS), LLC,

Petitioners,

v.

SPRINT COMMUNICATIONS COMPANY, L.P.,

Respondent.

**APPLICATION FOR A 60-DAY EXTENSION OF TIME TO FILE
A PETITION FOR 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 Supreme Court Rule 13.5, petitioners Time Warner
Cable, Inc.; Time Warner Cable, LLC; Time Warner Entertainment
Company, L.P.; Time Warner Entertainment-Advance/Newhouse
Partnership; TWC Communications LLC; and Time Warner Cable
Information Services (Kansas), LLC (collectively, “Time Warner”)

respectfully request a 60-day extension of time to file a petition for a writ of certiorari, to and including August 15, 2019.¹

The United States Court of Appeals for the Federal Circuit's panel decision and judgment issued on March 18, 2019 (Tab A, available at 760 F. App'x 977), replacing an initial decision issued on November 30, 2018

¹ All parties are listed in the caption. Pursuant to Rule 29.6, petitioners certify that Time Warner Cable, Inc. has merged out of existence. Substantially all of Time Warner Cable, Inc.'s assets and liabilities were transferred to TWC Newco LLC, which is now known as Time Warner Cable LLC ("TWC LLC II"). TWC LLC II is an indirect subsidiary of Charter Communications Holdings, LLC. Time Warner Cable, Inc. was merged into Nina Company II, LLC, which is now known as Spectrum Management Holding Company, LLC. Spectrum Management Holding Company, LLC is an indirect subsidiary of Charter Communications, Inc.

Time Warner Cable LLC and Time Warner Entertainment Company, L.P. merged into Time Warner Cable Enterprises LLC. Time Warner Cable Enterprises is a direct subsidiary of TWC LLC II and an indirect subsidiary of Charter Communications, Inc.

TWC Communications, LLC is an indirect subsidiary of Charter Communications, Inc.

Time Warner Cable Information Services (Kansas), LLC is an indirect subsidiary of Charter Communications, Inc.

Time Warner Entertainment-Advance/Newhouse Partnership has been dissolved and its successor-in-interest is Time Warner Cable Enterprises.

Charter Communications, Inc. has no parent company. Liberty Broadband Corporation is the only publicly-held company that owns ten percent (10%) or more of Charter Communications, Inc.

(Tab B). Under this Court’s Rule 13, Time Warner’s time to petition for a writ of certiorari, absent an extension, runs to June 16, 2019. Time Warner files this application more than 10 days before that date, and invokes this Court’s jurisdiction under 28 U.S.C. § 1254(1).

Time Warner plans to seek review of a decision of the Federal Circuit that raises recurring issues of national importance and injects needless uncertainty into otherwise-settled law. For example, this Court has long held—and repeatedly reaffirmed—that a patent owner “must in every case give evidence tending to separate or apportion the defendant’s profits and the patentee’s damages between the patented feature and the unpatented features.” *Garretson v. Clark*, 111 U.S. 120, 121 (1884); *see also, e.g., Westinghouse Elec. & Mfg. Co. v. Wagner Elec. & Mfg. Co.*, 225 U.S. 604, 614-15 (1912) (if an infringing product contains numerous components that “each may have jointly, but unequally, contributed to the [ill-gotten] profits,” and “plaintiff’s patent only created a part of the profits, he is only entitled to recover that part of the net gains”). Yet the decision below fails to apply that unambiguous precedent. The Federal Circuit distorts and conflicts with centuries of apportionment jurisprudence requiring complete apportionment, and instead authorizes

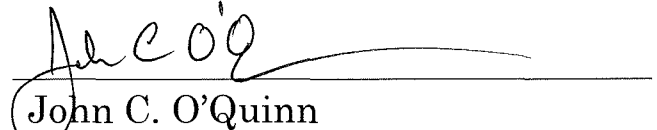
damages based on unapportioned end-product revenues. Making matters worse, the decision below also raises significant issues regarding the admissibility of prior jury verdicts from related cases and the proper role of 35 U.S.C. § 112(a)'s "written description" requirement. And because of the Federal Circuit's unique near-monopoly on patent cases, that court's grave misapplication of law is likely to persist and infect all manner of future cases unless and until this Court intervenes to bring the Federal Circuit back in line.

Time Warner respectfully requests an extension of time to accommodate its counsel's other professional obligations during the time allotted to prepare a petition for certiorari. Counsel's obligations during the time allotted to prepare the petition and through mid-July include (a) preparing for and arguing five appeals in the courts of appeals; (b) preparing and filing ten briefs in the court of appeals; and (c) various pre-existing professional obligations in district court proceedings. In the absence of an extension, those obligations will significantly impede counsel's ability to prepare a well-researched and comprehensive petition that will assist the Court in evaluating the Federal Circuit's decision.

Accordingly, Time Warner respectfully requests a 60-day extension of time, to and including August 15, 2019, of the deadline to file a petition for writ of certiorari.

May 23, 2019

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John C. O'Quinn", is written over a horizontal line. The signature is fluid and cursive.

John C. O'Quinn

Counsel of Record

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