

No. 20-1589

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**In the Supreme Court of the United States**

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KRIS KASZUBA, DBA HOLLYWOOD GROUP, PETITIONER

*v.*

ANDREW HIRSHFELD

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*ON PETITION FOR A WRIT OF CERTIORARI  
TO THE UNITED STATES COURT OF APPEALS  
FOR THE FEDERAL CIRCUIT*

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**BRIEF FOR THE RESPONDENT IN OPPOSITION**

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## QUESTIONS PRESENTED

1. Whether the court of appeals correctly affirmed a decision of the Trademark Trial and Appeal Board (Board) allowing a private party to seek cancellation of petitioner's trademark under the Lanham Act, 15 U.S.C. 1064.

2. Whether the court of appeals properly allowed the Director of the United States Patent and Trademark Office to intervene to defend the Board's decision cancelling petitioner's mark.

3. Whether the administrative trademark judges who ordered that petitioner's trademark be cancelled were appointed in conformity with the Appointments Clause, U.S. Const. Art. II, § 2, Cl. 2.

**PARTIES TO THE PROCEEDING**

Petitioner (appellant below) is Kris Kaszuba, doing business as Hollywood Group.

Respondent (intervenor below) is Andrew Hirshfeld, Commissioner of Patents performing the functions and duties of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office (USPTO).\*

**ADDITIONAL RELATED PROCEEDINGS**

United States Court of Appeals (Fed. Cir.):

*Kaszuba v. Iancu*, No. 2019-1547 (Aug. 5, 2020)

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\* Andrew Hirshfeld is substituted for Andrei Iancu, former Under Secretary of Commerce for Intellectual Property and Director of the USPTO. See Sup. Ct. R. 35.3.

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### **OPINIONS BELOW**

The opinion of the court of appeals (Pet. App. 1a–16a) is not reported in the Federal Register but is reprinted at 823 Fed. Appx. 973. The final decision of the Trademark Trial and Appeal Board (Pet. App. 19a-25a) is not reported in the United States Patents Quarterly, but is available at 2018 WL 6585321.

### **JURISDICTION**

The judgment of the court of appeals was entered on August 5, 2020. A petition for rehearing was denied on October 23, 2020 (Pet. App. 26a-27a). The petition for a writ of certiorari was filed on March 20, 2021. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

### **STATEMENT**

1. The Patent Act of 1952, 35 U.S.C. 1 *et seq.*, establishes the United States Patent and Trademark Office

(USPTO) as an executive agency within the United States Department of Commerce “responsible for the granting and issuing of patents and the registration of trademarks.” 35 U.S.C. 2(a)(1); see 35 U.S.C. 1(a). Congress vested “[t]he powers and duties” of the USPTO in its Director, who is appointed by the President and confirmed by the Senate, 35 U.S.C. 3(a)(1), and it made the Director “responsible for providing policy direction and management supervision for the Office and for \* \* \* the registration of trademarks,” 35 U.S.C. 3(a)(2)(A).

The Trademark Trial and Appeal Board (Board) is an administrative tribunal within the USPTO. 15 U.S.C. 1067. It is composed of the Director of the USPTO, the Deputy Director, the Commissioner for Patents, the Commissioner for Trademarks, and “administrative trademark judges.” 15 U.S.C. 1067(b). Administrative trademark judges are “appointed by the Secretary of Commerce, in consultation with the Director.” *Ibid.* The Board is responsible for reviewing *ex parte* appeals from denials of applications to register trademarks, and for conducting four types of *inter partes* proceedings: interferences, oppositions, concurrent-use proceedings, and cancellation proceedings. 15 U.S.C. 1067, 1070; see 15 U.S.C. 1052(d), 1062-1064, 1092.

The Lanham Act does not specify how many members of the Board must hear each appeal or *inter partes* proceeding. Instead, the statute authorizes the Director to determine the composition of each panel, pursuant to the Director’s general authority to create “rules and regulations, not inconsistent with law,” governing “the conduct of” any proceeding of the Board. 15 U.S.C. 1123; see 35 U.S.C. 2(b)(2)(A). Under current regulations and practice, the Board uses a panel of at least three members to hear and decide each case. 37 C.F.R.



2.129(a), 2.142(e)(1); see Trademark Trial & Appeal Board, U.S. Patent & Trademark Office, *TTAB Manual of Procedure* § 803 (June 2021), <https://tbmp.uspto.gov/RDMS/TBMP/current>.

Dissatisfied parties have several means to seek further agency review of adverse Board decisions. Parties may petition the Director to exercise his “supervisory authority \* \* \* in appropriate circumstances.” 37 C.F.R. 2.146. They may also ask the Board itself to reconsider both interlocutory and final decisions. 37 C.F.R. 2.129(c), 2.144. Although rehearing petitions customarily are heard by the same panel that rendered the initial decision, neither the Lanham Act nor USPTO regulations specify how many members of the Board must agree in order to grant a rehearing; how many members must preside over the rehearing; which members they will be; or what (if any) deference the rehearing panel must give to the original panel. Accordingly, as a standing member of the Board, the Director may unilaterally rehear any case *de novo*. See 37 C.F.R. 2.142(g) (authorizing any application for a trademark decided on appeal to the Board to be “reopened \* \* \* upon order of the Director”).

In December 2020, Congress amended the Lanham Act to “confirm” the “authority of the Director” to review Board decisions. Trademark Modernization Act of 2020 (Trademark Modernization Act), Pub. L. No. 116-260, Div. Q, Tit. II, Subtit. B, § 228, 134 Stat. 2209 (capitalization altered). As amended, the Lanham Act states that the Director’s supervisory authority over the relevant USPTO trademark proceedings “includes the authority to reconsider, and modify or set aside, a decision of the [Board].” § 228(a), 134 Stat. 2209; see H.R. Rep. No. 645, 116th Cong., 2d Sess. 22 (2020)

(House Report) (“The purpose of the new language is to state even more explicitly the existing authority of the Director.”); see also Trademark Modernization Act § 228(b), 134 Stat. 2209 (“The amendments made by subsection (a) shall not be construed to mean that the Director lacked the authority to reconsider, and modify or set aside, a decision of the [Board] before the enactment of this Act.”).

2. a. On July 15, 2008, petitioner registered the trademark “HOLLYWOOD BEER.” Pet. App. 2a. In 2015, Hollywood Vodka, LLC (HVL) filed an application for cancellation of petitioner’s mark under 15 U.S.C. 1064, which allows “any person who believes that he is or will be damaged \* \* \* by the registration of a mark” to petition the Board for cancellation of that mark under certain circumstances, including where the mark’s “registration was obtained fraudulently.” 15 U.S.C. 1064(3); see Pet. App. 2a. HVL alleged that it owned a pending trademark that had been refused registration in light of petitioner’s prior registration, and that petitioner had committed fraud in obtaining his registered mark because the mark has never been used in commerce. Pet. App. 2a.

Proceedings before the Board began, and several contested motions and rulings followed. Petitioner moved to dismiss HVL’s petition, arguing among other things that HVL did not have a right to file its petition under Section 1064 because it was not the owner of the pending trademark application and because the USPTO should have determined that a different registration, other than petitioner’s, barred the application. C.A. App. 320. The Board rejected those arguments, explaining that HVL had “sufficiently pleaded” that it owned the application and that its application had been

refused because of petitioner's registered mark. *Id.* at 369; see *id.* at 362-373.\*

HVL subsequently served petitioner with discovery requests to which petitioner failed to respond. See Pet. App. 4a; see also C.A. App. 576. When HVL moved for sanctions against petitioner, the Board issued an order declining at that time to impose sanctions, but requiring petitioner to provide the requested discovery within 15 days. C.A. App. 739-746; see Pet. App. 4a. The Board warned that, “[i]n the event that [petitioner] fails to timely respond in any way as ordered herein, [HVL’s] remedy may lie in a renewed motion for sanctions, including entry of judgment as appropriate.” C.A. App. 744; see Pet. App. 4a. Petitioner requested leave to file a motion for reconsideration, but the Board denied that request, and it again reminded petitioner that failure to comply with its order could result in “entry of judgment as appropriate.” C.A. App. 754 n.3; see *id.* at 751-754; see also Pet. App. 4a.

When HVL did not receive discovery responses from petitioner by the extended deadline, it filed a renewed motion for sanctions. C.A. App. 756-764; see Pet. App. 5a. The Board recognized that petitioner “ha[d] not made a good effort to satisfy” its discovery obligations, and had instead “deliberately sought to evade and frustrate [HVL’s] attempts to secure discovery.” C.A. App. 821; see Pet. App. 5a. The Board concluded, however, that entering judgment against petitioner at that time

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\* The Board also rejected petitioner’s argument that HVL’s amended cancellation petition should be dismissed because it was filed after a deadline established by a previous order of the Board. C.A. App. 366-369; see Pet. App. 2a-4a. Petitioner does not challenge that ruling here. Cf. Pet. 5.

would be unduly harsh, and it again extended the deadline for petitioner to comply. C.A. App. 818-823; see Pet. App. 5a. The Board warned petitioner that failure “to comply fully with this order” would result in entry of judgment against him. C.A. App. 822.

Even after receiving that further extension of time, see C.A. App. 861-862, petitioner still did not comply with the discovery order. Pet. App. 5a. The Board granted HVL’s renewed motion for sanctions, entered default judgment against petitioner, and granted the petition to cancel petitioner’s registration. *Id.* at 19a-25a. While acknowledging that default judgment is a harsh remedy, the Board found that remedy to be justified here in light of petitioner’s continued failure to comply with the Board’s order, even after receiving multiple extensions and warnings. *Id.* at 24a-25a.

b. Petitioner appealed to the Federal Circuit. In his opening brief, petitioner argued that the Board had erred in denying his motion to dismiss the petition because, *inter alia*, HVL had not adequately alleged that it was within the class of persons who could petition for cancellation under Section 1064. See Pet. C.A. Br. 9, 13-14. Petitioner also argued that the Board had abused its discretion in cancelling his trademark as a sanction for his failure to comply with the Board’s discovery order. *Id.* at 17.

HVL did not appear in the Federal Circuit. Pet. App. 2a n.1. After petitioner filed his opening brief, the court issued an order directing the Director of the USPTO to inform the court within 30 days whether the Director intended to intervene to defend the Board’s decision. C.A. Doc. 15 (July 30, 2019). The Director notified the court of his intent to intervene. C.A. Doc. 17 (Aug. 29, 2019).

Petitioner moved to dismiss the Director from the appeal, arguing that, “because [HVL] did not have [s]tanding” to file its petition for cancellation, the Director lacked “[s]tanding” to appear before the Federal Circuit. C.A. Doc. 26, at 5 (Oct. 29, 2019). In his reply in support of his motion, petitioner asserted for the first time that the Federal Circuit’s ruling in *Arthrex, Inc. v. Smith & Nephew, Inc.*, 941 F.3d 1320 (2019), vacated by 141 S. Ct. 1970 (2021), that the administrative patent judges of the Patent Trial and Appeal Board (PTAB) were principal officers for purposes of the Appointments Clause, *id.* at 1327-1329, “applie[d]” to the administrative trademark judges of the Trademark Trial and Appeal Board, see C.A. Doc. 34, at 6 (Nov. 15, 2019). Petitioner repeated that argument in his merits reply brief. Pet. C.A. Reply Br. 11-12.

c. The court of appeals issued a per curiam summary order denying petitioner’s motion to dismiss the Director as a party, Pet. App. 17a-18a, and an unpublished opinion affirming the Board’s cancellation of petitioner’s trademark, *id.* at 1a-16a.

In its opinion, the court of appeals held that the Board had not erred in denying petitioner’s motion to dismiss the petition. Pet. App. 9a-11a. The court observed that “Section 1064 permits a petitioner to seek cancellation of a registered trademark if he believes that he is or will be damaged by the registered trademark.” *Id.* at 9a. The court explained that, although this condition is sometimes referred to as a statutory standing requirement, it is more “appropriately viewed” as an element of the cause of action. *Ibid.* The court held that HVL had adequately pleaded that element by alleging that it possessed an ownership interest in its

trademark application and that the USPTO had “re-jected its [trademark] application” based on petitioner’s registered mark. *Id.* at 11a.

The court of appeals further held that the Board had acted within its discretion in subsequently entering a default judgment against petitioner on the ground that petitioner had “continually failed to comply with the Board[’s] orders,” “despite the multiple extensions afforded to him,” and had offered no explanation for that failure. Pet. App. 15a-16a. The court also noted that it had “considered petitioner’s remaining arguments” but found them to be “unpersuasive.” *Id.* at 16a.

d. The court of appeals denied a petition for rehearing and rehearing en banc without noted dissent. Pet. App. 26a-27a.

#### ARGUMENT

Petitioner contends (Pet. 10-12) that the court of appeals refused to follow this Court’s decision in *Lexmark Int’l, Inc. v. Static Control Components, Inc.*, 572 U.S. 118 (2014), in assessing whether HVL had adequately alleged an entitlement to petition for cancellation of petitioner’s trademark under the Lanham Act. That argument lacks merit. The Federal Circuit has applied the principles articulated in *Lexmark* to determine whether various parties were entitled to petition for cancellation of trademarks, and petitioner’s factbound challenge to the court’s application of those principles here does not warrant this Court’s review.

Petitioner further contends (Pet. 12-14) that the court of appeals erred in permitting the Director of the USPTO to intervene to defend the Board’s decision. But it is well-established that the Director may intervene on appeal to defend agency decisions, and the court of appeals’ summary order denying petitioner’s

challenge to the Director’s intervention in this case does not raise any issue that warrants further review.

Finally, petitioner relies (Pet. 14-15) on the Federal Circuit’s decision in *Arthrex, Inc. v. Smith & Nephew, Inc.*, 941 F.3d 1320 (2019), vacated by *United States v. Arthrex, Inc.*, 141 S. Ct. 1970 (2021), to contend that the Board’s administrative trademark judges are “principal officers” whose appointments by the Secretary of Commerce violate the Appointments Clause. Petitioner forfeited any Appointments Clause challenge by failing to timely raise it in the proceedings below. In any event, the argument lacks merit. Unlike the statutory scheme this Court found to be unconstitutional in *Arthrex*, the Lanham Act does not restrict the Director’s authority to review and reverse decisions of the Trademark Trial and Appeal Board—as a plurality of this Court recognized in *Arthrex* itself. The petition for a writ of certiorari should be denied.

1. In *Lexmark*, this Court articulated standards to be used in defining “the class of plaintiffs whom Congress has authorized to sue under” the Lanham Act’s cause of action for false advertising, 15 U.S.C. 1125(a). 572 U.S. at 128. The Court explained that it generally “presume[s] that a statutory cause of action extends only to plaintiffs whose interests ‘fall within the zone of interests protected by the law invoked’” and whose “injuries are proximately caused by violations of the statute.” *Id.* at 129, 132 (citation omitted). Consistent with those presumptions, the Court concluded that, in determining whether a plaintiff has a cause of action for false advertising under the Act, “[t]he relevant question” is whether the plaintiff’s asserted interest “is one the Lanham Act protects,” and “whether the harm alleged

is proximately tied to the defendant's conduct." *Id.* at 137.

Although *Lexmark* concerned only the Lanham Act's cause of action for false advertising, the Federal Circuit has treated "the *Lexmark* analytical framework" as supplying "the applicable standard for determining whether a person is eligible" to petition for trademark cancellation under Section 14 of the Lanham Act, 15 U.S.C. 1064, which provides a right to seek cancellation before the Board to "any person who believes that he is or will be damaged \* \* \* by the registration of a mark." *Corcamore, LLC v. SFM, LLC*, 978 F.3d 1298, 1303, 1306 (2020) (emphasis omitted; quoting 15 U.S.C. 1064), cert. denied, No. 20-1309 (May 24, 2021); *id.* at 1305 ("[T]he *Lexmark* zone-of-interests and proximate-causation requirements control the statutory cause of action analysis under [Section] 1064."). The Federal Circuit's precedents defining the class of persons who may petition for cancellation under Section 1064 have not used the terms "zone-of-interests" and "proximate causation" that the Court used in *Lexmark*. *Id.* at 1305, 1306. The court of appeals has explained, however, that the analysis employed in those decisions is "substantive[ly]" identical to "the analysis used in *Lexmark*." *Ibid.*

Petitioner contends (Pet. 10) that the Board and the Federal Circuit failed to determine whether HVL had adequately alleged proximate causation "because they used a 'belief' test instead of what the *Lexmark* decision and § 1064 require." But "a party that demonstrates a reasonable belief of damage by the registration of a trademark" under Federal Circuit precedent "demonstrates proximate causation within the context of § 1064." *Corcamore*, 978 F.3d at 1306; see *ibid.* ("While



our precedent does not describe the causation requirement as one of ‘proximate causation,’ it nonetheless requires petitioner’s belief of damage to have a ‘sufficiently close connection’ to the registered trademark at issue.”) (quoting *Lexmark*, 572 U.S. at 133). Petitioner also challenges the application of that standard to the allegations in HVL’s cancellation petition. But that factbound disagreement with the analyses of the Board and the court of appeals does not warrant this Court’s review. See Sup. Ct. R. 10.

Although petitioner asserts (Pet. 9) that the decision below “conflicts with the decision of another circuit Court of Appeals,” he does not identify any such decision. Petitioner’s reliance (Pet. 11) on Judge Wallach’s discussion of the Federal Circuit’s Section 1064 precedents is misplaced. In *Australian Therapeutic Supplies Pty. Ltd. v. Naked TM, LLC*, 981 F.3d 1083 (2020), Judge Wallach suggested that en banc review was warranted where the Federal Circuit had permitted a party (1) to seek cancellation in breach of a previous settlement agreement with the trademark holder and (2) to rely on a trademark application filed *after* the cancellation petition to establish the party’s entitlement to seek cancellation. *Id.* at 1090-1091, 1093-1094 (Wallach, J., dissenting from denial of rehearing en banc). This case does not implicate either of those issues. And Judge Wallach otherwise agreed that the Federal Circuit’s case law interpreting Section 1064 was consistent with *Lexmark*. See *id.* at 1086 (“Recently, we clarified \* \* \* that \* \* \* there is ‘no meaningful, substantive difference between the analytical frameworks expressed in *Lexmark*’” and in the Federal Circuit’s precedents.).

2. Petitioner contends (Pet. 12-14) that the court of appeals erred in permitting the Director to intervene to

defend the Board's decision in this case. Petitioner argues that 35 U.S.C. 143 "only allows the Director to intervene in an appeal from a decision entered by the Patent Trial [and] Appeal Board," not the Trademark Trial and Appeal Board. Pet. i. That contention likewise does not warrant this Court's review.

In a footnote, the court below mistakenly cited Section 143 as authorizing the Director's intervention in this case. As petitioner rightly notes (Pet. 12), that provision instead authorizes the Director to intervene in appeals from decisions of the PTAB. Federal Rule of Appellate Procedure 15(d), however, authorized the Director to intervene in the present appeal. See Fed. R. App. P. 15(d) (providing for intervention by motion "[u]nless a statute provides another method"). Although Rule 15(d) generally requires a motion or notice of intervention to be filed within 30 days after a petition for review is filed in the court of appeals, the Director timely intervened here pursuant to the court of appeals' order directing him to notify it of his intent to intervene in this case. C.A. Docs. 15, 17; see Fed. R. App. P. 26(b) ("For good cause, the court may extend the time prescribed by these rules or by its order to perform any act, or may permit an act to be done after that time expires.").

Petitioner contends that the Director lacks "standing to intervene" here because he "does not meet the requirements of Art[icle] III" standing. Pet. 13 (citation omitted). But Article III standing requirements apply to "the party attempting to invoke the federal judicial power." *ASARCO Inc. v. Kadish*, 490 U.S. 605, 618 (1989). Here, petitioner invoked the court of appeals' jurisdiction to seek relief from the Board's cancellation of his trademark. The Director intervened only to defend the Board's decision. In that capacity, he

was not required to establish Article III standing. See *ibid.* (recognizing that, “[a]lthough respondents would not have had standing to commence suit,” this Court had jurisdiction to review a state supreme court’s decision because the “petitioners ha[d] standing to invoke the authority of a federal court”).

Petitioner also questions (Pet. 13-14) the propriety of the Director taking “sides” in this dispute. But there is nothing unusual or suspect about an agency appearing in a court of appeals to defend its administrative decision. See, *e.g.*, Fed. R. App. P. 15(a)(2)(B) (agency ordinarily must be named as respondent in appeal from agency proceeding). And it is well-established that the Director may intervene to defend decisions of administrative tribunals within the USPTO, including where, as here, the private challenger fails to appear. See, *e.g.*, *Cuozzo Speed Techs., LLC v. Lee*, 136 S. Ct. 2131, 2144 (2016) (“[T]he Patent Office may intervene in a later judicial proceeding to defend its [inter partes review] decision—even if the private challengers drop out.”); *In re Bose Corp.*, 580 F.3d 1240, 1243 (Fed. Cir. 2009) (allowing Director to intervene to defend trademark-cancellation decision where the appellee did not appear); *In re JobDiva, Inc.*, 843 F.3d 936, 938 (Fed. Cir. 2016) (same).

3. Petitioner contends (Pet. 14-15) that, for purposes of the Appointments Clause, U.S. Const. Art. II, § 2, Cl. 2, the Board’s administrative trademark judges are principal officers who must be appointed by the President with the advice and consent of the Senate, rather than by the Secretary of Commerce, as the Lanham Act provides. Petitioner asserts (Pet. 15) that the Director and Secretary of Commerce have the “same authority” over administrative trademark judges as they have over

the administrative patent judges whom the Federal Circuit found to be principal officers in *Arthrex, Inc. v. Smith & Nephew, Inc.*, *supra*. That argument lacks merit and does not warrant this Court’s review.

Petitioner forfeited any Appointments Clause challenge by raising it for the first time in his reply in support of his motion to remove the Director as an intervenor—which was filed after his opening brief in the court of appeals. The Federal Circuit has consistently treated Appointments Clause challenges as forfeited in these circumstances. See, e.g., *Customedia Techs., LLC v. Dish Network Corp.*, 941 F.3d 1173, 1174 (Fed. Cir. 2019) (per curiam) (concluding that, under “well established” Federal Circuit law, a litigant “forfeited its Appointments Clause challenge[.]” by failing to raise it “in its opening brief” on appeal), cert. denied, 141 S. Ct. 555 (2020). And this Court has repeatedly denied petitions for a writ of certiorari challenging such forfeiture holdings. See *Customedia Techs., LLC v. Dish Network Corp.*, 141 S. Ct. 555 (2020) (No. 20-135); Pet. at 16-20, *Customedia*, *supra* (No. 20-135); *IYM Techs. LLC v. RPX Corp.*, 141 S. Ct. 850 (2020) (No. 20-424); Pet. at 11-17, *IYM Techs. LLC*, *supra* (No. 20-424); see also *ThermoLife Int’l, LLC v. Iancu*, 141 S. Ct. 1049 (2021) (No. 20-150); Pet. at 33-35, *ThermoLife*, *supra* (No. 20-150). The same result is warranted here.

In any event, petitioner’s Appointments Clause challenge lacks merit. In *Arthrex*, this Court “h[e]ld that the unreviewable authority wielded by [administrative patent judges] during inter partes review is incompatible with their appointment by the Secretary to an inferior office.” 141 S. Ct. at 1985. To remedy that constitutional defect, a majority of the Court determined that 35 U.S.C. 6(c) “cannot constitutionally be enforced to

the extent that its requirements prevent the Director from reviewing final decisions rendered by [administrative patent judges].” 141 S. Ct. at 1987 (plurality opinion); see *ibid.* (“The Director accordingly may review final PTAB decisions and, upon review, may issue decisions himself on behalf of the Board.”); *id.* at 1997 (Breyer, J.) (“agree[ing] with [the plurality’s] remedial holding”). The *Arthrex* plurality recognized, however, that the Lanham Act *already* granted the Director the authority to review and reverse decisions of the Trademark Trial and Appeal Board. See *id.* at 1987 (stating that the remedy the Court adopted would “align[] the PTAB with the *other* adjudicative body in the PTO, the Trademark Trial and Appeal Board”).

Although the plurality based that statement on the December 2020 Trademark Modernization Act, see 141 S. Ct. at 1987, that Act merely “confirm[ed]” the Director’s preexisting authority to review Trademark Trial and Appeal Board decisions. Trademark Modernization Act § 228, 134 Stat. 2209; see House Report 22 (“Because it is understood that this authority already exists in the trademark context, the statutory additions should be understood to be confirmatory only.”). And even if it were uncertain whether the Director possessed that authority before December 2020, Congress’s enactment of the Trademark Modernization Act deprives that statutory question of any prospective significance that might warrant this Court’s review.

**CONCLUSION**

The petition for a writ of certiorari should be denied.  
Respectfully submitted.

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