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December 16, 2021

Hon. Scott S. Harris, Clerk
Supreme Court of the United States
One First Street, NE
Washington, DC 20543

Re: *Apple Inc. v. Optis Cellular Technology, LLC*, No. 21-118

Dear Mr. Harris,

I represent petitioner, Apple Inc., in the above-captioned case and write to oppose the December 15, 2021 request of the private respondents, Optis Cellular Technology, LLC, et al., for an extension of time in which to file a response to the petition.

The petition in this case was filed on July 26, 2021. After the federal respondent indicated its intent to file a response by requesting and obtaining a 30-day extension of time, the private respondents waived their response. The federal respondent obtained a second (unopposed) 30-day extension and filed its opposition on October 27, 2021. The petition was distributed for consideration at the Court's December 3, 2021 conference but was rescheduled when the Court, on November 23, 2021, requested a response from the private respondents to be filed by December 23, 2021. Three weeks later, the private respondents filed the instant extension request.

Under the current schedule, the Court can consider the petition at its conference on January 14, 2022, allowing for the possibility of briefing and argument during the current Term. Although the petition ordinarily would not be distributed until at least fourteen days after the filing of the brief in opposition, petitioner intends to waive the fourteen-day period to allow distribution on December 29 for the January 14 conference.

Extending the time for the private respondents to file their opposition would further delay the Court's consideration of the petition and foreclose any possibility

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of briefing and argument during the current Term.¹ Delaying decision of this case to late 2022 or early 2023 would further delay the U.S. Patent and Trademark Office's potential consideration of the patentability of the patent claims at issue, which are also the subject of parallel litigation between the parties, producing the risk of a damages judgment based on patent claims that should never have issued—an outcome that would seriously prejudice petitioner. Conversely, the private respondents have had ample time—nearly five months—since the petition was filed in July 2021 to consider their position. Accordingly, petitioner respectfully requests that the Court deny the requested extension.

Respectfully submitted,

Catherine M.A. Carroll/PLT

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cc: William M. Jay, counsel for the private respondents
Hon. Elizabeth B. Prelogar, Solicitor General of the United States

¹ The same problem would arise if the Court granted a more modest extension of less than 30 days, because December 29, 2021 is the last distribution date for the January 14, 2022 conference. Petitions distributed for the January 21, 2022 conference or subsequent conferences are unlikely to be eligible for briefing and argument during the current Term. Moreover, I will be traveling internationally from January 1 to January 8, 2022, and will be unable to engage as needed with a reply brief during that time.