

No. 22-__

IN THE SUPREME COURT OF THE UNITED STATES

BROOKLYN BREWERY CORPORATION,

Petitioner,

v.

BROOKLYN BREW SHOP, LLC,

Respondent.

**APPLICATION FOR EXTENSION OF TIME TO
FILE A PETITION FOR A WRIT OF CERTIORARI TO THE
U.S. COURT OF APPEALS FOR THE FEDERAL CIRCUIT**

APPLICATION TO THE HONORABLE JOHN G. ROBERTS, JR.,
CHIEF JUSTICE OF THE U.S. SUPREME COURT & CIRCUIT JUSTICE

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Rule 29.6 Statement

Petitioner Brooklyn Brewery Corporation is a private corporation. No publicly held corporation owns 10% or more of the stock of Brooklyn Brewery Corporation.

Pursuant to Supreme Court Rules 13.5, 22, and 30, Petitioner respectfully requests a 60-day extension of time, up to and including June 17, 2022, to file a petition for writ of certiorari to the United States Court of Appeals for the Federal Circuit to review that court's decision in *Brooklyn Brewery Corp. v. Brooklyn Brew Shop*, 17 F.4th 129 (Fed. Cir. 2021). *See* Exhibit A. Petitioner sought rehearing and rehearing *en banc*, and the Federal Circuit denied that petition on January 18, 2022. *See* Exhibit B. The jurisdiction of this Court will be invoked under 28 U.S.C. § 1254(1), and the time to file a petition for a writ of certiorari will expire without an extension on April 18, 2022. This application is timely because it has been filed more than ten days before the date on which the time for filing the petition is to expire.

1. This case presents a substantial and important question of federal law: what must a party show to have Article III standing to appeal an adverse judgment from the Trademark Trial and Appeal Board to the United States Court of Appeals for the Federal Circuit? Below, the Federal Circuit for the first time held that such appellants must show that (1) it competes in the same line of business as the appellee, and (2) failure to cancel or refuse registration of a mark would likely cause the appellant competitive injury. *Brooklyn*, 17 F.4th at 139. The Federal Circuit's unprecedented decision contravenes this Court's decisions, including *Lexmark Int'l, Inc. v. Static Components, Inc.*, 572 U.S. 118 (2014), and, for many litigants, forecloses appellate review of adverse TTAB decisions.

2. Mary D. Hallerman is counsel of record for Petitioner. She is counsel for appellant in *UV RML NL Assets, LLC v. Coulter Ventures, LLC*, No. 21-56281 in the Ninth Circuit, and the opening brief is due April 8, 2022. She is also counsel for plaintiff in *Harman Int'l Industries, Inc. v. Jem Accessories, Inc.*, Case No. 2:20-cv-08222-AB-SK, in the Central District of California, and discovery is set to close in that matter on April 15, 2022 and dispositive motions due on April

22, 2022. She is also counsel for defendant in *Vitalyte Sports Nutrition, Inc. v. Revitalyte, LLC*, Case No. 3:21-cv-00880-JO-BGS, in the Southern District of California, with expert discovery closing on May 3, 2022 and dispositive motions due May 4, 2022. Additionally, she will be travelling out of town with her family from April 14, 2022 through April 17, 2022.

3. All of these commitments have limited and will limit counsel's availability to work on this matter between today and April 18, 2022.

Accordingly, Petitioner 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 June 17, 2022.

Dated: April 7, 2022

Respectfully submitted,

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