No. 24-1016

In the
Supreme Court of the United States

RISEANDSHINE CORPORATION, DBA RISE BREWING,
Petitioner,
v.
PEPSICO, INC.,
Respondent.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

MOTION FOR LEAVE TO DISPENSE WITH PREPARATION OF A JOINT APPENDIX

Pursuant to Supreme Court Rule 26.8, Petitioner RiseandShine Corporation respectfully seeks leave to dispense with the requirement of a joint appendix in this case. Petitioner is authorized to state that counsel for Respondent PepsiCo, Inc. concurs in the filing of this motion

This case presents the question whether trademark strength is a question of fact in a likelihood-of-confusion analysis under 15 U.S.C. § 1114. That issue is informed by the record materials in this case, which are voluminous, span two separate appeals to the United States Court of Appeals for the Second Circuit in two different postures, and contain graphic and visual elements not easily accommodated by this Court's booklet format. The opinions and orders of the district court and the court of appeals at each stage of this litigation are already reproduced in the appendix to the petition for a writ of certiorari, which was prepared as required by Rule 33.1. Accordingly, the parties agree that preparation and submission of a joint appendix would not materially assist the Court's consideration of this case, and that the Court's decisional process will be

better aided by considering this case on the original record or the appendices in the Second Circuit.

Pursuant to Rule 29.6, Petitioner states that its corporate disclosure statement was included in the petition for a writ of certiorari. *See* Pet. iii. There are no amendments to that statement.

For the foregoing reasons, the motion to dispense with the preparation of a joint appendix should be granted.

Respectfully submitted,

/s/ Kirk T. Bradley

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