IN THE SUPREME COURT OF THE UNITED STATES

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No. 24-1016

RISEANDSHINE CORPORATION, DBA RISE BREWING, PETITIONER

v.

PEPSICO, INC.

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

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MOTION OF THE UNITED STATES
AS AMICUS CURIAE SUPPORTING PETITIONER
FOR LEAVE TO PARTICIPATE IN AND FOR DIVIDED ORAL ARGUMENT

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Pursuant to Rules 21, 28.4, and 28.7 of the Rules of this Court, the Solicitor General, on behalf of the United States as amicus curiae supporting petitioner, respectfully moves that the United States be granted leave to participate in the oral argument in this case, and that the time be allotted as follows: 20 minutes for petitioner, 10 minutes for the United States, and 30 minutes for respondent. Petitioner consents to this motion.

The question presented in this case is whether a trademark's inherent strength -- one the factors relevant to the likelihood-of-confusion inquiry in trademark-infringement actions under the

Lanham Act, see 15 U.S.C. 1114(1), 1125(a)(1)(A) -- is a factual question. The United States has a substantial interest in the Court's disposition of that question. The United States Patent and Trademark Office registers trademarks, see 15 U.S.C. 1062-1070, and is responsible for disseminating to the public information with respect to trademarks and for advising the President and federal agencies on intellectual-property policy issues, 35 U.S.C. 2. The United States also owns enforceable trademarks and may be subject to suit for trademark infringement, 15 U.S.C. 1122(a) and (c). The United States therefore has a substantial interest in the Court's resolution of the question presented. At the Court's invitation, the United States filed a brief at the petition stage of this case.

The United States has regularly presented oral argument as either a party or as amicus curiae in this Court's cases involving the Lanham Act and trademark law more generally. See, e.g., Vidal v. Elster, 602 U.S. 286 (2024); Abitron Austria GmbH v. Hetronic Int'l, Inc., 600 U.S. 412 (2023); Jack Daniel's Props., Inc. v. VIP Prods. LLC, 599 U.S. 140 (2023); United States Patent & Trademark Office v. Booking.com B.V., 591 U.S. 549 (2020); Iancu v. Brunetti, 588 U.S. 388 (2019); Matal v. Tam, 582 U.S. 218 (2017); B&B Hardware, Inc. v. Hargis Indus., Inc., 575 U.S. 138 (2015); Hana Fin., Inc. v. Hana Bank, 574 U.S. 418 (2015); POM Wonderful LLC v. Coca-Cola Co., 573 U.S. 102 (2014); Already, LLC v. Nike,

Inc., 568 U.S. 85 (2013); KP Permanent Make-Up, Inc. v. Lasting Impression I, Inc., 543 U.S. 111 (2004). Oral presentation of the views of the United States is therefore likely to be of material assistance to the Court.

Respectfully submitted.

D. JOHN SAUER
Solicitor General
Counsel of Record

NOVEMBER 2026