

IN THE
Supreme Court of the United States

GESTURE TECHNOLOGY PARTNERS, LLC,
Petitioner,

v.

UNIFIED PATENTS, LLC, APPLE INC.,
LG ELECTRONICS INC., LG ELECTRONICS USA, INC.,
AND GOOGLE LLC,
Respondents.

**On Petition for a Writ of Certiorari
to the United States Court of Appeals
for the Federal Circuit**

REPLY BRIEF FOR PETITIONER

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October 15, 2025

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RULE 29.6 STATEMENT

Petitioner's Statement pursuant to Rule 29.6 was set forth at page iii of the petition for a writ of certiorari, and there are no amendments to that Statement.

Gesture Technology Partners and its founder, Dr. Timothy Pryor, own a number of expired patents from Dr. Pryor's inventions over the years. Gesture no longer can enforce its monopoly over these inventions, which now have entered the public domain. But Gesture retains a limited property right for damages from a handful of large infringers who profited from Dr. Pryor's inventions during the patent term.

The question in this case is whether Gesture can vindicate those property rights in an Article III court or whether the infringers can resort to an administrative tribunal to retroactively cancel Gesture's patents before its infringement lawsuits get off the ground. Gesture respectfully submits that the answer is that the Constitution protects Gesture's right to proceed in court and prohibits the government's attempt to remit Gesture to an administrative forum in which its remaining property rights may be summarily revoked.

The question presented in this case is identical to the one presented in the separate petition of *Gesture Technology Partners, LLC v. Apple, Inc., et al.*, No. 24-1280 ("*Gesture I*"), which explains in greater detail the reasons why certiorari is warranted here. The Court should grant certiorari in *Gesture I* and hold this petition pending resolution of the question presented therein.

ARGUMENT

As the opening hold petition explains, this case presents the same question as *Gesture I*: whether the PTO has the authority to conduct administrative adjudications of expired patents. Respondents agree. *See* Opp. 9 ("This petition presents the same question as the petition in *Gesture I*").

The Court therefore should hold this petition pending its decision in *Gesture I*, so that it may then use its

standard practice of granting certiorari, vacating the judgment below, and remanding the case for reconsideration in light of *Gesture I*. Respondents again agree. See Opp. 12 (“Should it grant Gesture’s petition in *Gesture I*, the Court should hold this petition.”).

Respondents spend the remainder of their opposition advancing misguided arguments about the merits of the question presented. All of these arguments are wholly subsumed by the arguments in respondents’ opposition to the *Gesture I* petition, and all of them are comprehensively addressed in Gesture’s petition and reply in *Gesture I*.

For purposes of this reply, it suffices to say that respondents’ merits arguments assume the answer to the question presented, refuse to acknowledge the crucial differences between live and expired patents that call for a different constitutional analysis with respect to the latter, and wrongly insist that *Oil States Energy Services, LLC v. Greene’s Energy Group, LLC*, 584 U.S. 325 (2018), resolved a question that neither the Court nor the litigants in that case ever mentioned.

CONCLUSION

The petition for a writ of certiorari should be held pending this Court’s decision in *Gesture I* (No. 24-1280) and disposed of as appropriate given that decision.

Respectfully submitted,

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