No. 24A___

IN THE

Supreme Court of the United States

CERAMTEC GMBH,

Applicant,

v.

COORSTEK BIOCERAMICS LLC,
F/K/A C5 MEDICAL WERKS,

Respondent.

APPLICATION FOR AN EXTENSION OF TIME TO FILE A PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

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June 11, 2025

CORPORATE DISCLOSURE STATEMENT

CeramTec GmbH is a (wholly-owned) subsidiary of CeramTec Group GmbH. No publicly held company owns 10% or more of stock in CeramTec Group GmbH.

APPLICATION

To the Honorable John G. Roberts, Jr., Chief Justice of the United States:

Pursuant to Rule 13.5 of the Rules of this Court and 28 U.S.C. § 2101(c), Applicant CeramTec GmbH respectfully requests a 30-day extension of time, to and including August 20, 2025, within which to file a petition for a writ of certiorari to review the judgment of the United States Court of Appeals for the Federal Circuit in this case.

1. The Federal Circuit entered judgment on January 3, 2025.[1] *See CeramTec GmbH* v. *CoorsTek Bioceramics LLC*, 124 F.4th 1358 (Fed. Cir. 2025), App.1a. The court denied Applicant's petition for rehearing en banc on April 22, 2025. *See* App.18a. Unless extended, the deadline to file a petition for a writ of certiorari is July 21, 2025. This application is being filed more than ten days before a petition is currently due. *See* Sup. Ct. R. 13.5. The jurisdiction of this Court would be invoked under 28 U.S.C. § 1254(1).

2. In the decision below, a panel of the Federal Circuit affirmed the Trademark Trial and Appeal Board's invalidation of two of Applicant CeramTec's trademarks. The Federal Circuit's decision deviates from this Court's precedent in *TrafFix Devices, Inc. v. Marketing Displays, Inc.*, 532 U.S. 23 (2001) and conflicts with decisions from other circuits.

3. CeramTec has manufactured ceramic hip joint components for nearly 50 years. The company has spearheaded multiple advances in ceramic production

[1] The Federal Circuit's opinion is erroneously dated January 3, 2024.

methods, including leading a market shift from alumina to zirconia-toughened alumina (ZTA) ceramics. ZTA ceramics are tougher than pure alumina ceramics because of the addition of zirconia.

4. Early on, CeramTec relied on yttrium chromite to introduce yttria to its ZTA ceramics. During the production process, the chromium ions bonded with oxygen to form chromia in solid solution with alumina. The presence of chromia in the ZTA compounds affects its color. CeramTec's products' specific chromia content—0.33 weight percentage—means that the hip joint component is pink. Subsequent technical developments made it possible to achieve the benefits of zirconia without relying on yttrium chromite. Nevertheless, CeramTec recognized it had an opportunity to build a brand around the color pink, and eventually applied to register trademarks for the color pink as applied to hip joint components.

5. Respondent CoorsTek entered the hip implant component market long after CeramTec and sought to capitalize on the market's existing association between the color pink and the reputation for outstanding quality that CeramTec had achieved. CoorsTek initially developed a white ZTA product, but then opted to reverse engineer how to make a pink version that would look like CeramTec's product. After doing so, CoorsTek launched a decade-long campaign to eliminate the legal protection CeramTec acquired for its distinctive pink product, including through cancellation proceedings before the Board.

6. CoorsTek's case for cancellation drew heavily on CeramTec's expired utility patents and the outdated and inaccurate belief that chromia moderately

increased ceramics' hardness. Even assuming those patents were correct about chromia's effect, however, they stated that the benefits of chromia could be attained by a wide range of chromia values. The chromia values claimed in the patent result in ceramics of almost every color on the spectrum—white, off-white, red, purple, gray, yellow, or black. App.4a. Critically, the utility patents did not suggest that the amount of chromia required to produce the trademarked color pink ceramic was in any way functionally superior to the amount of chromia that would produce ceramics of any of these other colors.

7. The Board nonetheless concluded that CeramTec's pink marks for hip implant components were functional. The Board invoked *TrafFix* to conclude that the utility patents were "strong evidence" that the color pink was functional for hip implant components. App.110a-115a. In *TrafFix*, this Court held that a company's utility patents, which claimed a "dual-spring design" to help stabilize outdoor signs, were "strong evidence" that the dual-spring design was functional and thus ineligible for trade dress protection. 532 U.S. at 25, 29-30. The Board, however, read *TrafFix* to apply whenever a trademarked feature can result from practicing an expired utility patent—regardless of whether the same benefits can be obtained by alternative designs. App.114a-115a. Because the color pink is just one color (of many) that could result from practicing CeramTec's expired patents, the Board treated the patents as "strong evidence" of functionality under *TrafFix*. App.113a-114a.

8. CeramTec appealed, arguing that the Board erred in applying *TrafFix* here, where CeramTec's expired utility patents did not teach any advantage for pink

ceramic hip implant components over the full spectrum of colors of ZTA ceramics that can be produced by practicing the patents. CeramTec explained that other circuits had correctly refused to read *TrafFix* to treat an expired utility patent as "strong evidence" of functionality for *every* design that will be implemented therein. Rather, those courts have properly focused on whether the expired patents teach a functional benefit for the specific "features in question" that have been trademarked. *TrafFix*, 532 U.S. at 30; *see, e.g.*, *McAirlaids, Inc.* v. *Kimberly-Clark Corp.,* 756 F.3d 307, 312-313 (4th Cir. 2014) (concluding that *TrafFix* burden did not apply where process covered by utility patent did not compel use of the design protected by trade dress); *Bodum USA, Inc.* v. *A Top New Casting Inc.*, 927 F.3d 486, 496 (7th Cir. 2019) (excluding evidence of utility patents from trade dress trial where patents did not claim functional benefit for the specific dome shape protected by trade dress).

9. A panel of the Federal Circuit affirmed the Board's decision. The panel recognized that "the range of chromia claimed in the [] patent can produce ZTA ceramics in a variety of colors, such as pink, red, purple, yellow, black, gray, and white." App.4a. Nevertheless, the court concluded that the patent taught an advantage for the color pink because practicing the patent *could* result in a pink ceramic. *Id.* The panel did not even acknowledge the cases from other circuits—cited in CeramTec's briefing—which found *TrafFix* inapplicable when a product design is "a purely aesthetic choice among many alternatives." *McAirlaids,* 756 F.3d at 312-313.

10. CeramTec sought rehearing en banc, explaining that the panel's decision deviated from this Court's precedent and that of other circuits. The Federal Circuit denied rehearing after requesting and receiving a response from CoorsTek. App.18a.

11. The issues in this case are exceptionally important. The Federal Circuit incorrectly applies *TrafFix* and is on the wrong side of the circuit split described above. This Court's review is necessary to restore uniformity and protect intellectual property rights. Patents and trademarks serve distinct, but equally important, procompetitive purposes: Patents ensure adequate incentives to invest and innovate, while trademarks protect customers from confusion and ensure informed decision-making in the market. *See TrafFix*, 532 U.S. at 28; *Qualitex Co. v. Jacobson Prods. Co.*, 514 U.S. 159, 163-164 (1995). The panel's decision, however, improperly penalizes innovators by jeopardizing their ability to seek trademark protection for arbitrary design choices that are "merely an ornamental, incidental, or arbitrary aspect" of a patented device. *TrafFix*, 532 U.S. at 30.

12. Good cause exists for a 30-day extension of the time to file a certiorari petition. Counsel have a number additional commitments during the briefing period, including: (1) a petition for certiorari in *Coinbase Inc.* v. *Darren Kramer*, No. 24-1230, filed May 30, 2025; (2) a brief *amicus curiae* in *President and Fellows of Harvard College* v. *U.S. Dep't of Health and Human Services*, No. 1:25-cv-11048 (D. Mass), filed June 9; (3) a brief *amicus curiae* in *Association of American Medical Colleges* v. *National Institutes of Health*, No. 25-1344 (1st Cir.), and *Association of American*

Universities v. *United States Department of Health and Human Services*, No. 25-1345 (1st Cir.), due June 16; (4) a brief in opposition to a motion for remand in *Florida Attorney General* v. *Snap*, 3:25-cv-656 (N.D. Fla.); (5) a reply brief in *Hetsler v. Ford Motor Co.*, No. 5D2024-2368 (Fla. 5th Dist. Ct. App.), due on June 30; (6) a response brief in *Warner* v. *Amgen Inc.*, No. 25-1268 (1st Cir.), due July 17, 2025; and (7) a reply brief in *La Union del Pueblo Entero* v. *FEMA*, No. 24-40756 (5th Cir.), due July 23, 2025. The requested extension will ensure that counsel have time to fully brief the important issues in this case.

13. For the foregoing reasons, CeramTec GmbH respectfully requests that the Court extend the time to file a certiorari petition to and including August 20, 2025.

Respectfully Submitted,

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