IN THE
SUPREME COURT OF THE UNITED STATES

No. ___

BMG RIGHTS MANAGEMENT (US) LLC; CAPITOL CMG, INC.; ESSENTIAL MUSIC PUBLISHING LLC; and WARNER-TAMERLANE PUBLISHING CORP.;

Applicants,

v.

CYRIL E. VETTER and VETTER COMMUNICATIONS CORPORATION;

Respondents.

APPLICATION TO THE HON. SAMUEL A. ALITO, JR. FOR AN EXTENSION OF TIME WITHIN WHICH TO FILE A PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

Pursuant to Supreme Court Rule 13(5), BMG Rights Management (US) LLC, Capitol CMG, Inc., Essential Music Publishing LLC, and Warner-Tamerlane Publishing Corp. hereby move for an extension of time of 30 days, to and including May 13, 2026, for the filing of a petition for a writ of certiorari. Unless an extension is granted, the deadline for filing the petition for certiorari will be April 13, 2026.

In support of this request, Applicants state as follows:

1. The United States Court of Appeals for the Fifth Circuit rendered its decision on January 12, 2026 (Exhibit A). This Court has jurisdiction under 28 U.S.C. §1254(1).

2. The Fifth Circuit's decision upended the widely accepted legal principle that U.S. copyright law cannot be used to terminate the assignment of foreign

copyright rights from one private party to another. The Copyright Act includes provisions that afford an author (or certain of his heirs) the option to clawback U.S. copyright rights that he previously granted in certain circumstances. *See* 17 U.S.C. §§203, 304. But for decades, legions of private parties—both in the U.S. and abroad, across various creative industries—have ordered their affairs on the understanding that "[t]ermination of the grant of U.S. rights" under those provisions "does *not* affect the ownership of rights granted for other territories." Richard Arnold & Jane C. Ginsburg, *Foreign Contracts and U.S. Copyright Termination Rights: What Law Applies?*, 43 Colum. J.L. & Arts 437, 453 (2020) (emphasis added); *see also, e.g.*, 7 Patry on Copyright §25:74 (2025) ("Accordingly, where a U.S. author conveys worldwide rights and terminates under either [§§203 or 304], grants in all other countries remain valid according to their terms or provisions in other countries' laws."). This uniform understanding, shared by leading commentors, is rooted both in basic principles of extraterritoriality and in the statutory text, which specifies that the statutory clawback "affects *only* those rights covered by the grant *that arise under this title*"—i.e., Title 17 of the U.S. Code—"and in no way affects rights arising under any other Federal, State, or foreign laws." 17 U.S.C. §304(c)(6)(E) (emphasis added).

3. The principle that grants or transfers of foreign copyright rights are not subject to statutory termination under §§203 or 304 has been an uncontroversial premise of U.S. (and foreign) law for decades. *See, e.g., Fred Ahlert Music Corp. v. Warner/Chappell Music, Inc.*, 155 F.3d 17, 20 (2d Cir. 1998) (assignee "retained the foreign rights to the copyright after termination" of U.S. assignment under §203); *see*

also Siegel v. Warner Bros. Ent'mt, Inc., 542 F.Supp.2d 1098, 1141-42 (C.D. Cal. 2008) (similar), *rev'd in part on other grounds*, 504 F.App'x 586 (9th Cir. 2013). Indeed, this understanding has prevailed for so long that basic music industry norms have been built on it. *See, e.g.*, 2 Entertainment Law 3d: Legal Concepts and Business Practices §§16:152, 16:153 (2025) ("Foreign rights are not affected by termination."); Jeffrey P. Cunard & Brandon C. Gruner, *Statutory Termination Rights (Copyright)*, Practical Law Practice Note w-0100835 (2024) ("Any termination only affects US copyrights. It has no effect on other federal, state, or non-US rights.").

4. Earlier this year, the Fifth Circuit expressly split from those cases and upended those settled industry norms by holding that when an author who originally assigned away "exclusive rights … throughout the world for the full term of copyright protection" effectively exercises his statutory right to clawback the assigned U.S. rights, the clawback automatically reverts both U.S. *and* foreign rights. As noted, that alarming result is impossible to square with Congress' choice to confine the clawback to "*only* those rights" arising under the Copyright Act, not "rights arising under any other Federal, State, or foreign laws." 17 U.S.C. §304(c)(6)(E) (emphasis added). But Judge Stewart's panel opinion purported to find an arguable ambiguity lurking in that remarkably on-point text, and further claimed that both statutory purpose and legislative history supported holding that the author did not actually assign separate foreign rights but merely assigned a U.S. copyright "to the extent that it extends internationally." Ex.A at 7-12. Absent magic words imposing an "explicit geographical limitation in section 304(c)(6)(E) that restricts the" statutory

clawback "to uses within the United States," the panel announced that it would give the clawback provision the broadest geographic effect possible. Ex.A at 8. *But see Yegiazaryan v. Smagin*, 599 U.S. 533, 541 (2023) ("[A]bsent clearly expressed congressional intent to the contrary, federal laws will be construed to have only domestic application.").

5. By virtue of the panel's maximalist interpretation, the Fifth Circuit held that Plaintiff Cyril E. Vetter, who back in 1963 assigned away "exclusive rights" to his song *Double Shot (Of My Baby's Love)* "throughout the world for the full term of copyright protection," Ex.A at 2, regained sole and exclusive worldwide ownership in 2019 by exercising his statutory clawback right under U.S. law. After the Fifth Circuit issued its mandate, Applicants acquired the copyright interest held by Resnik for purposes of filing a petition for writ of certiorari. The district court substituted Applicants as defendants on April 1, 2026. *See* D.Ct.Dkt.61.

6. Applicants' counsel, Paul D. Clement, was not involved in the proceedings below and was only recently retained. Mr. Clement requires additional time to review the record, prior proceedings, and the governing precedent relevant in this case in order to prepare and file a petition for a writ of certiorari that best presents the arguments for this Court's review.

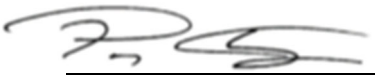
7. Mr. Clement also has substantial oral argument and briefing obligations between now and May 13, 2026, including:

- oral argument before the U.S. Court of Appeals for the Seventh Circuit on April 14 in *United States v. Pramaggiore*, No. 25-2349;

- a petition for writ of certiorari due on April 15 in *National Small Business United v. Bessent*, *see* No. 25A968;
- a reply brief for Petitioners due on April 17 in *Monsanto Co. v. Durnell*, No. 24-1068 (U.S.);
- a reply brief due on April 23 in *In re: Rail Freight Fuel Surcharge Antitrust Litigation*, No. 25-7103 (D.C. Cir.);
- oral argument before this Court on April 27 in *Monsanto*; and
- a petition for writ of certiorari due on May 13 in *City of Bossier v. Hershey*, *see* No. 25A9996.

WHEREFORE, for the foregoing reasons, Applicants request that an extension of time, to and including May 13, 2026, be granted within which Applicants may file a petition for a writ of certiorari.

Respectfully submitted,



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