No. 25A____

In the Supreme Court of the United States

CROCS, INC.,

Applicant,

v.

INTERNATIONAL TRADE COMMISSION

APPLICATION FOR AN EXTENSION OF TIME TO FILE A PETITION FOR A WRIT OF CERTIORARI

To the Honorable John G. Roberts, Jr., Chief Justice of the United States and Circuit Justice for the United States Court of Appeals for the Federal Circuit:

1. Pursuant to Supreme Court Rule 13.5, Applicant Crocs, Inc., respectfully requests a 60-day extension of time, to and including September 24, 2026, within which to file a petition for a writ of certiorari. The United States Court of Appeals for the Federal Circuit issued its opinion on January 8, 2026. A copy of the opinion is attached as Exhibit A. The Federal Circuit denied a timely petition for panel rehearing and rehearing en banc in an order dated April 27, 2026. A copy of the order is attached as Exhibit B. This Court's jurisdiction would be invoked under 28 U.S.C. § 1254(1).

2. Absent an extension, a petition for a writ of certiorari would be due on July 26, 2026. This application is being filed more than ten days in advance of that date, and no prior application has been made in this case.

3. This case presents a recurring and exceptionally important question of federal appellate procedure: whether a single final agency adjudication becomes final, and triggers the deadline to seek judicial review, at one time and for all purposes, or at different times for different parts of the same ruling. The Federal Circuit adopted the latter rule below in the context of review under Section 337 of the Tariff Act of 1930, 19 U.S.C. § 1337, and in doing so departed from the rule applied to every other final agency adjudication reviewable in the federal courts of appeals. The court held that a single document that the statute itself denominates a "determination" is not a single determination at all for purposes of § 1337(c)'s sixty-day deadline to appeal, but rather a bundle of separately appealable sub-determinations that become final on different dates and must be appealed on different clocks. That is so, the court held, even when—as here—the Commission's grant of relief and denial of relief are embodied in the same document, issued on the same day, voted on at the same time, and published in the same *Federal Register* notice. That holding fragments review of a single agency adjudication into piecemeal appeals on staggered clocks—a result no other federal appellate statute requires.

4. Section 337 of the Tariff Act of 1930 authorizes the International Trade Commission to investigate unfair practices in the importation of articles into the United States—most commonly intellectual property infringement—and to remedy violations through orders excluding infringing articles from entry and orders directing infringers to cease and desist. 19 U.S.C. § 1337(a)(1), (d), (f). The Commission must "conclude" any such investigation and "make its determination" at "the earliest practicable time." *Id.* § 1337(b)(1). The determination resolves "with respect to each investigation . . . whether or

not there is a violation of this section." *Id.* § 1337(c). When the Commission determines that there is a violation, it must "transmit to the President a copy of such determination" for a sixty-day review period during which the President may disapprove the determination "for policy reasons." *Id.* § 1337(j)(1)(B), (2). If the President does not disapprove, then "such determination shall become final on the day after the close of such period." *Id.* § 1337(j)(4). Under § 1337(c), "any person adversely affected by a final determination" of the Commission "may appeal such determination, within 60 days after the determination becomes final, to the United States Court of Appeals for the Federal Circuit." *Id.* § 1337(c).

5. In June 2021, Crocs filed a complaint with the Commission alleging that manufacturers and importers of foam clogs were infringing two registered trademarks in the design of Crocs's Classic Clog footwear. Exhibit A at 2. The Commission instituted Investigation No. 337-TA-1270 under 19 U.S.C. § 1337 the following month. *See id.* at 3. Three respondents—Hobby Lobby Stores, Inc.; Orly Shoe Corp.; and Quanzhou ZhengDe Network Corp. (collectively, the "Active Respondents")—appeared and contested the allegations before an administrative law judge. *See id.* at 1, 3. Four other respondents (collectively, the "Defaulting Respondents") did not appear and were found in default. *See id.* On September 14, 2023, the Commission issued its final determination concluding the investigation. *Id.* at 3. The Commission found no violation of § 1337 by the Active Respondents. *Id.* As to the Defaulting Respondents, the Commission entered a limited exclusion order and cease-and-desist orders pursuant to § 1337(g)(1), rather than the general exclusion order Crocs's complaint had alternatively requested. *Id.* at 3–4. That same day, the Commission transmitted the determination to the President for the sixty-day

review period under § 1337(j), and the Commission published the determination in a single *Federal Register* notice six days later. *See* 88 Fed. Reg. 64,926 (Sept. 20, 2023). The President did not disapprove the determination, and the review period closed on November 13, 2023. *See* Exhibit A at 8.

6. On December 22, 2023, Crocs filed a single notice of appeal in the United States Court of Appeals for the Federal Circuit, challenging both the Commission's denial of relief as to the Active Respondents and the scope of the relief the Commission granted against the Defaulting Respondents. *See* Exhibit A at 4. The notice of appeal was filed within sixty days of the day on which the determination "bec[a]me final" under 19 U.S.C. § 1337(j)(4)—the day after the close of the presidential review period.

7. The Federal Circuit dismissed Crocs's appeal in part and affirmed in part, holding that the Commission's single determination had two different finality dates for purposes of 19 U.S.C. § 1337(c). *See* Exhibit A at 9–10, 13. As to the denial of relief against the Active Respondents, the panel reasoned that the determination "became final" upon issuance on September 14, 2023, because that portion of the determination was not subject to presidential review under § 1337(j). *See id.* at 7–10. The sixty-day deadline to appeal therefore expired on November 13, 2023, and Crocs's December 22, 2023, notice of appeal was untimely. *Id.* at 9–10. As to the relief granted against the Defaulting Respondents, the panel concluded that the determination became final only after the close of presidential review, and that Crocs's appeal was timely. *See id.* at 10–13. In the panel's words, when the Commission "issues one writing" containing both kinds of dispositions, "there will be different deadlines to file an appeal for such decisions." *Id.* at 9–10. On the merits of the

portion of the appeal it reached, the panel affirmed the limited exclusion order entered against the Defaulting Respondents. *Id.* at 10–13. Crocs filed a timely petition for panel rehearing and rehearing en banc on the timeliness question, which the Federal Circuit denied on April 27, 2026. Exhibit B at 1–2.

8. The panel's rule that a single Commission "determination" becomes final at two different times for two different purposes warrants this Court's review. Under the panel's rule, every such determination must be appealed in pieces, on staggered clocks. The rule cannot be reconciled with the statutory text. Section 337 refers to "the determination" in the singular throughout—a single document the Commission "make[s]" at the conclusion of an investigation, 19 U.S.C. § 1337(b)(1); "transmit[s]" to the President when it finds a violation, *id.* § 1337(j)(1)(B); and that "become[s] final" at one point in time, *id.* § 1337(j)(4). Nothing in the statute suggests that "the determination" is in fact a bundle of separate sub-determinations that become final on different schedules.

9. The panel's rule also departs from how every other final agency determination reviewable in the federal courts of appeals is treated: as a single decision that becomes final once. The Federal Circuit's own treatment of appeals from the Patent Trial and Appeal Board illustrates the point. Under 35 U.S.C. §§ 141, 319, and 37 C.F.R. § 90.3, the sixty-three-day deadline for appealing a PTAB final written decision runs from the date of that decision—a single deadline keyed to a single decision, even when the PTAB has resolved the patentability of multiple claims across multiple grounds. *See, e.g., Voice Tech Corp. v. Unified Pats., LLC*, 110 F.4th 1331 (Fed. Cir. 2024) (reviewing claim construction and obviousness rulings within one PTAB final written decision on a single

appeal). No court of appeals—including the Federal Circuit when it sits in review of any agency other than the Commission—has read a single final agency decision to "become final" at different times for different parts of the decision. The decision below makes 19 U.S.C. § 1337(c) the only federal appellate-review statute that fragments a single agency determination into separately appealable pieces on staggered clocks.

10. The question recurs in every Commission investigation that ends in a determination finding violations as to some respondents or claims and no violations as to others. Such mixed dispositions are routine: 19 U.S.C. § 1337 investigations typically involve multiple respondents and multiple asserted intellectual property rights. The issue recurs frequently enough that another Federal Circuit appeal raising the same finality question was held pending the disposition of Crocs's rehearing petition below. *See Ascletis Pharma Inc. v. ITC*, No. 25-2162 (Fed. Cir. stayed Mar. 13, 2026).

11. The panel's rule operates as a trap for litigants. A complainant whose investigation ends in a determination finding violations as to some respondents or claims and no violations as to others must file two separate notices of appeal from the same Commission document: one within sixty days of issuance to challenge the no-violation findings, and a second within sixty days of the close of presidential review to challenge the relief. The party must do so even though both portions of the appeal arise from the same agency decision and turn on interrelated facts and legal questions. The result is duplicative briefing, duplicative docketing, and serial appeals from a single Commission decision. That regime is the precise opposite of the "efficient administration of justice" and "proper balance between trial and appellate" tribunals that the final-judgment rule is designed to

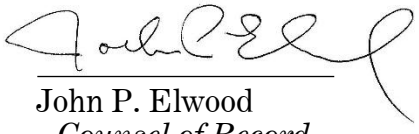
secure. *Geo Grp., Inc. v. Menocal*, 146 S. Ct. 774, 781 (2026) (quoting *Microsoft Corp. v. Baker*, 582 U.S. 23, 36–37 (2017)).

12. A 60-day extension is warranted. The Federal Circuit's decision turns on the interaction of multiple provisions of 19 U.S.C. § 1337, decades of case law on the finality of Commission determinations, and broader principles of administrative finality that govern review in every federal court of appeals. The petition will also require careful research into the appellate-review regimes Congress has prescribed for other final agency determinations. Counsel of record became involved at the rehearing stage and was not involved in the merits briefing before the Federal Circuit. A 60-day extension would allow sufficient time to research and analyze the issues presented and prepare the petition for filing. Counsel of record also has a number of other pending matters with near-term deadlines that will interfere with counsel's ability to file the petition on or before July 26, 2026.

Wherefore, Applicant respectfully requests that an order be entered extending the time to file a petition for a writ of certiorari to and including September 24, 2026.

Dated: June 4, 2026

Respectfully submitted,



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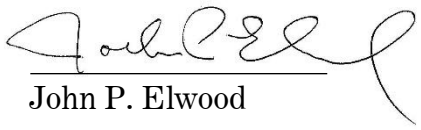
CORPORATE DISCLOSURE STATEMENT

Pursuant to Supreme Court Rule 29.6, Applicant Crocs, Inc. (NASDAQ: CROX), a Delaware corporation, states that it has no parent corporation. FMR LLC, a limited liability company, owns more than 10% of Crocs, Inc.'s stock.

Dated: June 4, 2026



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