No.

In The

Supreme Court of the United States

HMTX Industries, LLC; Halstead New England Corp.; Metroflor Corporation; Jasco Products Company LLC,

Applicants,

v.

United States; Office of the United States Trade Representative; Jamieson Greer, U.S. Trade Representative; United States Customs and Border Protection; Rodney S. Scott, Commissioner of U.S. Customs and Border Protection.

APPLICATION FOR 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:

APPLICATION FOR AN EXTENSION OF TIME

Pursuant to Rule 13.5 of the Rules of this Court, Applicants HMTX Industries, LLC, Halstead New England Corp., Metroflor Corporation, and Jasco Products Company LLC hereby request a 58-day extension of time within which to file a petition for a writ of certiorari, up to and including February 20, 2026.

JUDGMENT FOR WHICH REVIEW IS SOUGHT

The judgment for which review is sought is *HMTX Industries, LLC v. United States*, 156 F.4th 1236 (Fed. Cir. 2025) (attached as Exhibit 1).

JURISDICTION

This Court will have jurisdiction over any timely filed petition for a writ of certiorari in this case pursuant to 28 U.S.C. § 1254(1). Under Rules 13.1, 13.3, and 30.1 of the Rules of this Court, a petition for a writ of certiorari is currently due to be filed on or before December 24, 2025. Under Rule 13.5, a Justice may extend the time to file the petition for a period not exceeding 60 days, if the application is filed for good cause at least 10 days before the date the petition is due. This application is being filed for good cause more than 10 days before the date the petition is due, and it seeks an extension for a period not exceeding 60 days.

BACKGROUND

1. In Section 301 of the Trade Act of 1974, Congress delegated to the United States Trade Representative ("USTR") the authority to take action, including the imposition of duties on trading partners, to address certain trade practices. 19 U.S.C. § 2411. Under Section 301(a), USTR is required to take action if a trading partner violates a trade agreement, denies the United States rights under a trade agreement, or adopts an act, policy, or practice that is unjustifiable and burdens or restricts U.S. commerce. 19 U.S.C. § 2411(a). Under Section 301(b), USTR has the discretion to take action if a trading partner adopts an act, policy, or practice that is unreasonable or discriminatory and burdens or restricts U.S. commerce, so long as USTR determines that the action taken by the United States (such as duties or other

import measures) is appropriate. 19 U.S.C. § 2411(b). USTR must make findings that the justifications for taking action are met following an investigation during which interested parties may present their views and participate in a public hearing, and USTR must consult with the foreign country and appropriate private and non-Federal governmental committees. 19 U.S.C. §§ 2411-2414. Under Section 307, Congress authorized USTR to "modify or terminate any action" taken under Section 301 if (A) any of the conditions that would excuse mandatory action exist, (B) the burden or restriction on U.S. commerce of the denial of rights or of the investigated acts, policies, and practices that justified the Section 301 action has increased or decreased, or (C) the action taken is discretionary and is no longer appropriate. 19 U.S.C. § 2417(a).

2. From 2017 to 2018, the Office of the United States Trade Representative investigated certain acts, policies, and practices by China related to intellectual property, innovation, and technology transfer. *Notice of Determination and Request for Public Comment Concerning Proposed Determination of Action Pursuant to Section 301: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation*, 83 Fed. Reg. 14,906, 14,906-14,907 (Apr. 6, 2018). At the conclusion of that investigation, USTR found that the investigated acts, policies, and practices constituted unreasonable or discriminatory conduct that burdened or restricted U.S. commerce. *Id.* at 14,907. USTR took discretionary action under Section 301(b) by imposing 25% duties on approximately $50 billion in annual imports from China identified across two lists of Harmonized Tariff Schedule ("HTS")

codes (referred to as List 1 and List 2). *See Notice of Action and Request for Public Comment Concerning Proposed Determination of Action Pursuant to Section 301: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation*, 83 Fed. Reg. 28,710, 28,711-28,712 (June 20, 2018); *Notice of Action Pursuant to Section 301: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation*, 83 Fed. Reg. 40,823, 40,823-40,824 (Aug. 16, 2018).

In response to the List 1 and List 2 trade action, China announced retaliatory duties on an equivalent amount of trade from the United States. USTR then invoked Section 307 to "modify" its discretionary action by imposing duties on an additional $200 billion annually of Chinese imports identified on a third list of HTS codes (known as List 3). *Notice of Modification of Section 301 Action: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation*, 83 Fed. Reg. 47,974, 47,974-47,975 (Sept. 21, 2018); *Notice of Modification of Section 301 Action: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation*, 84 Fed. Reg. 20,459, 20,459 (May 9, 2019). The List 3 tariffs remain in effect.

Following another round of retaliatory duties by China, USTR again invoked its authority to "modify" the trade action under Section 307 to impose additional duties on essentially all remaining imports from China, which equated to roughly an additional $300 billion in imports per year. *Notice of Modification of Section 301 Action: China's Acts, Policies, and Practices Related to Technology Transfer,*

Intellectual Property, and Innovation, 84 Fed. Reg. 43,304, 43,304-43,305 (Aug. 20, 2019). The first tranche of those new tariffs, known as List 4A, covers roughly $120 billion in annual imports and remains in effect. *Notice of Modification of Section 301 Action: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation*, 84 Fed. Reg. 45,821 (Aug. 30, 2019); *Notice of Modification of Section 301 Action: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation*, 85 Fed. Reg. 3,741 (Jan. 22, 2020). Another tranche of tariffs, known as List 4B, was postponed indefinitely without taking effect.

3. In September 2020, Applicants commenced litigation in the Court of International Trade (CIT) to challenge the List 3 and List 4A duties. Since Applicants filed their complaints, more than 4,000 additional cases challenging the List 3 and/or List 4A duties have been filed. To manage the significant volume of cases, the CIT designated Applicants' case as the "sample case" for purposes of the court's initial consideration and resolution of the challenges to the tariffs and stayed the remaining cases challenging the List 3 and List 4A duties. The CIT also established a plaintiffs' steering committee consisting of attorneys from fifteen law firms that had filed similar cases, with counsel for Applicants being designated as the point of contact for the steering committee.

On the merits, the CIT concluded that the List 3 and List 4B tariffs were authorized by Section 307(a)(1)(B), 19 U.S.C. § 2417(a)(1)(B), which allows USTR to "modify or terminate" a trade action taken under Section 301 if "the burden or

restriction on United States commerce *** of the acts, policies, and practices, that are the subject of such action has increased or decreased." *In re Section 301 Cases*, 570 F. Supp. 3d 1306, 1331-1334 (Ct. Int'l Trade 2022) (ellipsis in original) (emphasis omitted). The CIT concluded that China's retaliatory measures were linked to the original Section 301 action because they were intended to allow China to maintain the investigated unfair trade acts and to offset the tariffs originally imposed to encourage their elimination. *Id.* at 1332-1334.

On appeal, the Federal Circuit affirmed, but on different grounds. Without addressing whether the burden on U.S. commerce from the acts, policies, and practices that were the subject of the original Section 301 trade action had increased, the Federal Circuit concluded that the List 3 and List 4A tariffs were authorized by Section 307(a)(1)(C), 19 U.S.C. § 2417(a)(1)(C), which allows USTR to "modify or terminate" discretionary action taken under Section 301(b) if "such action is no longer appropriate." *HMTX Indus. LLC v.*, 156 F.4th at 1250 (internal quotation marks omitted).[1]

REASONS JUSTIFYING AN EXTENSION OF TIME

Applicants' request for a 58-day extension of time within which to file a petition for a writ of certiorari seeking review of the decision of the Federal Circuit in this case, up to and including February 20, 2026, is supported by good cause for the following reasons.

[1] The Federal Circuit also affirmed the CIT's rejection of procedural challenges under the Administrative Procedure Act to the notice-and-comment process for the List 3 and List 4 duties. 156 F.4th at 1248-1249, 1255-1259.

1. This case presents a fundamental question of statutory interpretation: whether the authority in Section 307 of the Trade Act of 1974 to "modify" a Section 301 trade action allows USTR to impose tariffs on a scale that is many multiples of the original trade action to wage a trade war with a foreign country. The answer to that question is "no," as the plain meaning of the word "modify" is to "change moderately or in a minor fashion." *Biden v. Nebraska*, 600 U.S. 477, 494-495 (2023). The question raised is exceptionally important because it will determine the scope of USTR's authority over trade issues that significantly impact the U.S. economy.

2. The Court currently has before it cases raising the major-questions and non-delegation doctrines with respect to the Executive Branch's imposition of tariffs under the International Emergency Economic Powers Act. *See Learning Res., Inc. v. Trump*, Case No. 24-1287; *Trump v. V.O.S. Selections, Inc.*, Case No. 25-250 (argued Nov. 5, 2025). This case, which challenges USTR's unprecedented use of Section 307's "modification" authority to impose new tariffs on hundreds of billions of dollars of annual imports that far exceed the original tariff action taken under Section 301, implicates those same doctrines. The Court's decision in *Learning Resources* and *V.O.S. Selections* thus may impact the Court's consideration of Applicants' petition. The requested extension would increase the odds that the parties and the Court will have the benefit of any decision in those cases during the briefing and/or consideration of any certiorari petition in this case.

3. Counsel for Applicants also have numerous court deadlines in the weeks leading up to and following the current deadline for the petition in this case, including

(i) presenting oral argument in *Cloud v. NFL Player Retirement Plan*, No. 25-10337 (5th Cir.) on Dec. 3, 2025; (ii) filing an opening brief and appendix in *Hesai Technology Co., Ltd v. United States Department of Defense*, No. 25-5256 (D.C. Cir.) on Dec. 3, 2025; (iii) presenting oral argument in *In re SBK ART LLC*, No. 25-1563 (2d Cir.) on Dec. 4, 2025; (iv) filing a response to a petition for writ of certiorari in *FCC v. AT&T, Inc.*, No. 25-406 (S. Ct.), on Dec. 5, 2025; (v) filing a reply brief in *Hyundai Steel Co. v. United States*, Consol. Case No. 24-00190 (CIT) on Dec. 12, 2025; (vi) filing an opening brief in *Auxin Solar Inc. v. United States*, Nos. 2025-2120, 2026-1072 (Fed. Cir.) on Dec. 22, 2025; (vii) filing a supplemental brief in *Walmsley v. FTC*, No. 23-2687 (8th Cir.) on Dec. 22, 2025; (viii) filing an amicus brief in *Service Employees International Union v. NLRB*, No. 25-1119 (D.C. Cir.) on Dec. 23, 2025; and (ix) filing an opening brief and appendix in *Getty Industries v. GTI New Jersey*, No. A-003869-24 (N.J. Super. Ct. App. Div.) on Dec. 24, 2025, along with multiple other briefing and argument deadlines in January and February.

4. In addition, this case is a sample case for thousands of additional cases that have been stayed by the CIT. Counsel for Applicants requires sufficient time to confer with the plaintiffs' steering committee established by the CIT with respect to the petition before the petition is finalized and filed.

5. An extension would not cause any prejudice to Respondents. The challenged duties imposed by USTR remain in effect (as they have throughout the pendency of this litigation), and thus an extension will not interfere with the current administration of the duties. And the requested extension would still leave

Respondents ample time to respond to the petition to allow this Court's consideration before the summer recess.

CONCLUSION

For the foregoing reasons, Applicants respectfully request that this Court grant an extension of 58 days, up to and including February 20, 2026, within which to file a petition for a writ of certiorari in this case.

Respectfully submitted,

Pratik A. Shah
Counsel of Record
James E. Tysse
Matthew R. Nicely
Devin S. Sikes
Daniel M. Witkowski
AKIN GUMP STRAUSS HAUER & FELD LLP
2001 K Street, N.W.
Washington, DC 20006
(202) 887-4000
pshah@akingump.com

Counsel to HMTX Industries, LLC, Halstead New England Corp., Metroflor Corporation, and Jasco Products Company

December 1, 2025

CORPORATE DISCLOSURE STATEMENT

Applicant HMTX Industries LLC has parent companies, HMTX Acquisition LLC, Harlan Family Share Trust, and Peter Family Share Trust, with a greater than 10% ownership interest.

Applicant Halstead New England Corp. has parent companies, HMTX Industries LLC, HMTX Acquisition LLC, Harlan Family Share Trust, and Peter Family Share Trust, with a greater than 10% ownership interest.

Applicant Metroflor Corporation has parent companies, HMTX Industries LLC, HMTX Acquisition LLC, Harlan Family Share Trust, and Peter Family Share Trust, with a greater than 10% ownership interest.

Applicant Jasco Products Company LLC has no parent corporation and no publicly held corporation owns 10% or more of its stock.