No. 26-322

In the Supreme Court of the United States

INNOVAPORT LLC,

Petitioner,

v.

TARGET CORPORATION,

Respondent.

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

PETITIONER'S SUPPLEMENTAL BRIEF

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November 6, 2026

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Supreme Court Rule 15.8 provides: "any party may file a supplemental brief at any time while a petition for writ of certiorari is pending, calling attention to . . . [any] intervening matter not available at the time of the party's last filing." Subsequent to Petitioner's filing of the petition for writ of certiorari on September 4, 2026 ("the Innovaport Petition"), another petition for writ of certiorari was filed on October 13, 2026 in *Oasis Tooling, Inc. v. Siemens Industry Software Inc.*, *et al.*, Case No. 26-504 ("the Oasis Petition"), which raises a similar question presented. Subsequently on October 22, 2026, two waivers of rights of respondents were filed by two respondents in regard to the Oasis Petition. The Oasis Petition is scheduled to be distributed for conference on November 13, 2026, which is the same date on which the Innovaport Petition in the instant matter will be distributed for conference.

The filing and contents of the Oasis Petition were not known to Petitioner at the time it filed the Innovaport Petition. Accordingly, the Oasis Petition constitutes an intervening matter not available to Petitioner when it filed the Innovaport Petition.

For at least the reasons set forth below, Petitioner respectfully submits that the Oasis Petition further demonstrates why this Court should grant the Innovaport Petition and, indeed, why this Court should grant both petitions, either separately or jointly.

As explained in the Innovaport Petition, patent applicants, owners, and practitioners have been wandering in the patent eligibility wilderness for more

than a decade. We need a map. The Oasis Petition is yet another plea for guidance and clarification.

The question presented in the Oasis Petition is closely related to at least one of the questions presented in the Innovaport Petition concerning the proper standard for patent eligibility in regard to systems and methods implemented on computers, as set forth below:

Innovaport Petition: "Whether a computer-related invention can be patent eligible when directed toward a useful, practical application even if the invention does not change or improve to computer technology, computer capabilities, or computer functionality?"

Oasis Petition: "Whether a specific, multi-step computer-implemented process is patent eligible under 35 U.S.C. §101 when it performs a task in a way fundamentally different from how people previously did it—or whether such a claim is necessarily directed to an unpatentable abstract idea merely because a person could perform a similar task through a different and inferior mental process."

Indeed, the Federal Circuit made the same errors in its eligibility analysis for each case. First, the Federal Circuit improperly over-generalized the claimed technology without reference to preemption. Second, the Federal Circuit applied an overly constrictive concept of eligibility to find the technology ineligible for patenting, even though it constituted a useful and practical computer-implemented technology. As set

forth in detail in both Petitions, these are not the proper tests for eligibility for claims involving computers.

Given the overlap of issues, Petitioner submits it would be most efficient for the Court to consolidate the Petitions and grant. Were the Court to grant only the Oasis Petition, Petitioner respectfully requests that the Court hold its determination of the Innovaport Petition until after it has resolved the Oasis Petition.

To be clear, Petitioner is not requesting that only one of these Petitions be granted, but rather is requesting that both petitions be granted, either independently or in a consolidated fashion.[1]

Further, Petitioner notes that no response has been filed by any respondent for either the Innovaport Petition or the Oasis Petition (and, with respect to the Oasis Petition, waivers have been filed by the respondents in this regard). Petitioner respectfully submits that this Court should not view this lack of action on the part of respondents as an indication that there is "nothing to see here." To the contrary, this reflects what was articulated in the Innovaport Petition—namely, that the law of subject matter eligibility as currently being implemented by the Courts (in a manner inconsistent with the application of this law by the U.S. Patent and Trademark Office) heavily and

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[1] The Innovaport Petition is broader in scope and encompasses important questions that are not presented in the Oasis Petition. Petitioner's request to consolidate the two petitions should not be taken as a waiver of those questions that are not addressed in the Oasis Petition.

inequitably favors large, established companies. Rather than allowing the respondents to indifferently pass on commenting on these matters and maintaining the status quo to their benefit, Petitioner hopes and respectfully requests that this Court request each of the respondents to submit responses in each of these matters so that these important issues can be fully articulated to and vetted by this Court.

A prominent intellectual property commentator this past summer tallied the number of petitions that have been filed and denied: "[b]y my count, 89 petitions for writ of certiorari raising patent eligibility issues have been filed with the Supreme Court since the fall of 2017, where my tracking data begins." *Refilling the Pipeline: Two New Section 101 Petitions Heading to the Supreme Court* (Jul. 10, 2026); https://patentlyo.com/patent/2026/07/refilling-the-pipeline-two-new-section-101-petitions-heading-to-the-supreme-court.html. The Innovaport Petition and the Oasis Petition increase this tally to over 90 petitions in the past nine years. It is manifest from this litany of nearly 100 petitions that clarification of patent eligibility law is desperately needed, and we are earnestly seeking such guidance.

Accordingly, Petitioner respectfully requests that the Court provide clarification regarding subject matter eligibility and provide a map through the wilderness that has long been sought, as demonstrated by the more than 90 petitions filed in the last nine years. Further, as a vehicle for providing this critically needed map, Petitioner particularly requests that the Court grant, either separately or in consolidated

manner, both of the Innovaport Petition and the Oasis Petition.

Respectfully submitted,

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