

No. _____

In the Supreme Court of the United States

CENTRIPETAL NETWORKS, LLC,

Applicant

v.

CISCO SYSTEMS, INC.

**APPLICATION TO THE HONORABLE JOHN G. ROBERTS, JR.
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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RULE 29.6 CORPORATE DISCLOSURE STATEMENT

Pursuant to Rule 29.6 of the Rules of this Court, Applicant Centripetal Networks, LLC states that CNI Holdings, Inc. is its parent corporation and that it is not publicly traded, so no publicly held company owns 10% or more of its stock.

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

Pursuant to 28 U.S.C. § 2101(c), and Supreme Court Rules 13.5, 22, and 30.2, Applicant respectfully requests that the time to file a petition for a Writ of Certiorari in this matter be extended for fifty-two days to and including Friday, September 18, 2026. On April 29, 2026, the U.S. Court of Appeals for the Federal Circuit issued its order on the appeal. *See* App. A, *infra*. Absent an extension of time, the Petition would be due on July 28, 2026. Applicant is filing this Application at least ten days before that date. *See* S. Ct. R. 13.5. This Court would have jurisdiction over the judgment under 28 U.S.C. § 1254(1).

BACKGROUND

This case raises an important question about whether a district court can *sua sponte* reopen fully litigated issues that were not intended to be within the scope of a remanded proceeding (pursuant to Federal Rule of Civil Procedure 63), and, if so, to what extent a party must be afforded the opportunity to present evidence and argument responsive to the newly framed legal issue. Here, the *sua sponte* reframing concerned at least one key claim limitation in one of the asserted patents. In the prior (but later-vacated) trial, the defendant was found to have willfully infringed, with liability exceeding \$2.6 billion (including interest, costs, and an ongoing royalty for six future years). That judgment was later vacated on appeal because the district court judge (the late Judge Henry Coke Morgan, Jr.) learned—after he had written a

full draft of his 167-page opinion finding willful infringement—that his wife owned less than \$5,000 in the defendant’s stock.

The Federal Circuit vacated that willful-infringement judgment and remanded the case for a Rule 63 hearing, before a new judge because Judge Morgan had passed away. The hearing was intended to provide a technology review for the new judge, who had certified familiarity with the record, and to ensure that “the case may be completed without prejudice to the parties.” Fed. R. Civ. P. 63. It was not intended to revisit claim-construction issues, but that is what happened. But the hearing became a means through which defendant asked the court to apply new claim constructions. In contrast to Judge Morgan (who sat through a twenty-two-day trial), the district court now found no infringement based on the new claim constructions—and critically denied the patent owner’s request to present relevant evidence once the district court applied those new claim constructions. The appeals court found no error in this. App.19a. Centripetal respectfully submits that its contemplated petition for a writ of certiorari will show that the decision exhibits manifest error on at least one critical legal issue and “has so far departed from the accepted and usual course of judicial proceedings . . . as to call for an exercise of this Court’s supervisory power.” S. Ct. R. 10(a).

A. District Court Proceedings and First Appeal

Centripetal is a leading innovator in network security. This patented technology can be used, among other things, to define and enforce network-usage policies and network-security policies with extreme precision.

The dispute between Centripetal and Cisco started in 2018 when Centripetal sued Cisco in the U.S. District Court for the Eastern District of Virginia for infringing several patents, including U.S. Patent No. 9,686,193 (“the ’193 patent”).¹ During the pandemic’s nadir (May to June 2020), the district court conducted a twenty-two-day remote bench trial over video-conference, with Judge Morgan presiding. It produced “an over 3,507-page record, 26 witnesses, and over 300 exhibits.” *Centripetal Networks, Inc. v. Cisco Sys., Inc.*, 38 F.4th 1025, 1028 (Fed. Cir. 2022). On October 5, 2020, the court found that Cisco willfully infringed the asserted claims of the ’193 patent and three others and awarded damages for willful infringement. *Id.* at 1029.

Several weeks after trial and shortly before he was about to issue a decision, Judge Morgan learned that his wife owned 100 shares of Cisco stock (then valued at \$4,687.99). He promptly disclosed this to the parties and “explain[ed] that the shares did not and could not have influenced [his] opinion on any of the issues in this case,” as the “full draft of [his] opinion had been prepared before” he learned of the shares and “[v]irtually every issue” was already decided. *Centripetal Networks, Inc. v. Cisco Sys., Inc.*, 492 F. Supp. 3d 615, 617 (E.D. Va. 2020) (internal quotation omitted).

Cisco then moved for Judge Morgan’s recusal. The judge denied the motion. Cisco appealed, and the Federal Circuit held that recusal was required. It vacated the infringement judgment and remanded for further proceedings. Notably, the appeals court held that “the only rulings subject to vacatur are those issued after Judge

¹ The present application focuses on the legal error associated with the infringement finding for the ’193 patent.

Morgan learned of his wife’s financial interest in Cisco, on August 11, 2020.” *Centripetal*, 38 F.4th at 1039. The operative claim-construction order was not vacated and remained in effect on remand. *Id.* at 1040. In the interim, Judge Morgan had passed away on May 1, 2022, so the remand proceeded under Federal Rule of Civil Procedure 63. *Id.* at 1039–40.

In August 2022, the case was reassigned to Judge Elizabeth Wilson Hanes. At the outset, both Centripetal and Cisco agreed that the Rule 63 proceeding would be based on the record previously presented to Judge Morgan. The parties each filed a trial brief, along with proposed findings of fact and conclusions of law. The judge conducted a hearing for purposes of a technology tutorial, as well as arguments pertaining to infringement on the ’193 and other patents.

In December 2023, the district court ruled that Cisco did not infringe the three patents—a decision diametrically at odds with Judge Morgan’s original decision. For the ’193 patent, the district court stated that the asserted claims require “filtration of a subset of packets sent between [endpoint] computers in two different networks.” *Centripetal Networks, LLC v. Cisco Sys., Inc.*, 705 F. Supp. 3d 537, 553 (E.D. Va. 2023). This construction was wrong, and Centripetal filed a motion for reconsideration, explaining as much. The court recognized its error and acknowledged on reconsideration that “computing device” would be understood to include “device[s] that forward[] packets from multiple endpoint computers in the first network,” including “routers and switches.” *Centripetal Networks, LLC v. Cisco Sys., Inc.*, No. 2:18-cv-00094, 2024 WL 3460121, at *4 (E.D. Va. June 14, 2024).

The district court nevertheless denied Centripetal’s motion for reconsideration by embracing another erroneous construction of the same limitation in the same claims: “particular type of data transfer.” *Centripetal*, 2024 WL 3460121, at *2–5. This time, the district court relied on a technical dictionary that neither party entered into evidence or relied on, and ruled that the key claim limitation now meant “the specific technique, or method, associated with the data transmission.” *Id.* at *5. Under that new claim construction—adopted for the first time in its reconsideration decision—the court found no infringement of the ’193 patent, and for other reasons, no infringement of the other asserted patents.

B. Second Appeal

Centripetal appealed to the Federal Circuit, and the appeals court affirmed in full in an opinion issued on April 29, 2026. For the ’193 patent, the appeals court concluded that Centripetal had received adequate notice. App.15a. While the court noted that Cisco had pressed its narrow claim construction throughout the proceeding, the court’s opinion does not address the fact that the district court never accepted that claim construction until it ruled on Centripetal’s reconsideration motion. *Id.* In the court’s view, Cisco’s continuous pressing of its claim-construction theory was enough, even though neither Judge Morgan nor Judge Hanes ever adopted or applied Cisco’s claim construction—until after the Rule 63 hearing and for the first time in the reconsideration decision.

The appeals court also ruled that the newly adopted claim construction was correct. App.12a. Notably, the court did not rely on the district court’s primary evidence—the new dictionary definition. Instead, the appeals court turned to a limited portion of the patent specification and the file history. App.12a–13a. The appeals court also relied in part on a statement from an IPR petition challenging the ’193 patent that post-dated the original trial before Judge Morgan by three years. The statement, taken out of full context, was another example of new information used to change the claim-constriction application analysis. Had Centripetal been on adequate notice of the application of the court’s claim construction, then it could have and would have introduced evidence and argument to Judge Hanes to explain why the new claim construction was incorrect.

REASONS FOR GRANTING AN EXTENSION OF TIME

The time to file a Petition for Writ of Certiorari should be extended for fifty-two days for these reasons establishing good cause:

1. The Federal Circuit’s affirmance conflicts with its own precedents that govern the litigation procedure of affording a party the opportunity to respond to a new claim construction adopted and applied for the first time in a dispositive ruling. *See, e.g., Wi-Lan, Inc. v. Apple, Inc.*, 811 F.3d 455, 465 (Fed. Cir. 2016); *TNS Media Rsch., LLC v. Tivo Rsch. & Analytics, Inc.*, 629 F. App’x 916, 939 (Fed. Cir. 2015); *Eon-Net LP v. Flagstar Bancorp*, 249 F. App’x 189, 195–96 (Fed. Cir. 2007); *Hewlett-Packard Co. v. Mustek Sys., Inc.*, 340 F.3d 1314, 1320–21 (Fed. Cir. 2003).

2. The Federal Circuit’s affirmance of the district court’s *sua sponte* claim construction also implicates several fundamental litigation doctrines that seek to ensure

fairness and finality in the adjudicatory process. The affirmance suggests a district court can overlook these key procedural protections. For instance, the affirmance suggests that the legal scope of an asserted patent can be continually changed throughout a litigation, without any regard to the law-of-the-case doctrine. The affirmance raises questions about the role of the mandate rule, given that the Rule 63 proceeding was intended not to be a new trial in which wholesale new arguments about patent scope could be adopted. The affirmance also suggests that the district court's adoption of a new claim construction after the Rule 63 hearing—even though claim construction was not at issue in the hearing—is in tension with the party-presentation principle because the parties “frame the issues for decision,” while the court serves as “neutral arbiter of matters the parties present.” *United States v. Sineneng-Smith*, 590 U.S. 371, 375 (2020) (quoting *Greenlaw v. United States*, 554 U.S. 237, 243 (2008)); accord *Clark v. Sweeney*, 146 S. Ct. 410, 412 (2025) (per curiam).

To be clear, given the recent engagement, undersigned counsel is diligently researching these issues to ascertain and frame the precise legal question to be presented in Centripetal's intended petition.

3. An extension is required because undersigned counsel was only recently engaged (within the past week) to represent Applicant with respect to the anticipated petition. Undersigned counsel did not represent Applicant in the original trial before Judge Morgan, in the Rule 63 proceeding before Judge Hanes, or in the second appeal of this matter to the Federal Circuit. Undersigned counsel did represent Applicant

in a different appeal and in other proceedings. *See, e.g., Centripetal Networks, LLC v. Palo Alto Networks, Inc.*, 156 F.4th 1368 (Fed. Cir. 2025); *In re Centripetal Networks, LLC*, No. 2023-127, 2023 WL 3477282 (Fed. Cir. May 16, 2023). Additionally, undersigned counsel represented a separate party as an amicus curiae in support of Centripetal’s earlier petition for a writ of certiorari challenging the Federal Circuit’s ruling on Judge Morgan’s disqualification. Those matters presented technically related issues but largely different legal issues compared to those at issue here. Undersigned counsel’s familiarity with the technical subject matter will facilitate the continuing review and analysis of the current record. Even so, additional time will be necessary and greatly appreciated, given undersigned counsel’s very recent engagement.

4. Finally, undersigned counsel believes that the additional time to prepare the petition will permit potential *amici curiae* to evaluate the issues raised in this case and consider if and how they might assist the Court when reviewing the petition. Applicant’s travails through the judicial and patent systems have garnered significant interest in the legal community. For instance, when Centripetal filed its petition for a writ of certiorari challenging the Federal Circuit’s ruling on Judge Morgan’s disqualification, Centripetal received the support of four separate amicus briefs. *See Centripetal Networks, Inc. v. Cisco Sys., Inc.*, 143 S. Ct. 487 (2022) (cert. denied). Given the significance of the issue likely to be presented in Centripetal’s petition, the modest extension will allow those amici and others to evaluate the merits of this case

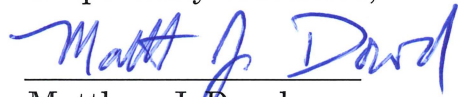
and provide further support to Centripetal, if they conclude that it is warranted. Additionally, the modest extension would not prejudice Respondent.

CONCLUSION

For the foregoing reasons, Applicant respectfully requests that the time to file its Petition for a Writ of Certiorari in this matter be extended by fifty-two days to and including Friday, September 18, 2026.

Date: July 17, 2026

Respectfully submitted,



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