

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

YINTAO YU,

vs.

BYTEDANCE, INC.; SHUYI (SELENE) GAO,

APPLICATION FOR AN EXTENSION OF TIME *NUNC PRO TUNC* TO
FILE A PETITION FOR A WRIT OF CERTIORARI

To the Honorable Elena Kagan, Associate Justice of the Supreme Court of the United States and Circuit Justice for the Ninth Circuit:

1. Pursuant to Supreme Court Rule 13.5, petitioner Yintao Yu respectfully requests a sixty-day extension of time, until October 26, 2026, within which to file a petition for a writ of certiorari. The United States Court of Appeals for the Ninth Circuit issued its opinion on April 30, 2026. The petitioner’s timely petition for rehearing was denied on May 29, 2026. Copies of the opinion and order denying rehearing are attached. This Court has jurisdiction under 28 U.S.C. § 1254(1).

2. Petitioner filed his first Application for Extension of Time on August 15, 2026. It was marked “Submitted” in the Court’s e-filing system but never

advanced to “Filed” or assigned a docket number because the Clerk did not receive a paper copy of the Application.

3. Counsel of Record for the Petitioner called the Clerk on August 24, 2026. In a voice mail message, he explained the situation and asked to be informed why the Application had not been filed and what could be done to remedy the situation. No return call was ever received.

4. Counsel of Record called the Clerk again on August 26, 2026. He once again was directed to voice mail. He once again explained the situation and asked to be informed why the Application had not been filed and what could be done to remedy the situation. No return call was ever received.

5. Counsel of Record is a full-time caregiver for his wife, who suffers from Aphasia as a result of a stroke and from advancing, progressive Multiple Sclerosis.

6. According to Rule 13.5 of this Court, an Application to extend the time to file a Petition for Writ of Certiorari must be “filed with the Clerk at least 10 days before the date the petition is due, *except in extraordinary circumstances.*”

(Emphasis Added.)

7. Taken together, all of the facts set forth above, together with the importance of the proposed Petition for Writ of Certiorari and the issues Petitioner would raise therein (and the need to resolve this matter on the merits) constitute “extraordinary circumstances,” justifying this Application for Extension *Nunc Pro Tunc*.

8. Absent an extension, a petition for writ of certiorari would be due on August 27, 2026. *See* U.S.S.Ct.R. 13.1. The requested extension is necessary because the issues to be presented in Petitioner's case are complex and significant and due to the recent retention of appellate counsel and counsel's competing work obligations.

9. Petitioner began working for defendant ByteDance in August 2017 as the head of engineering in ByteDance's U.S. offices. On his first day at ByteDance, on or around August 30, 2017, Petitioner was shown to a small conference room at ByteDance's Beijing headquarters. Petitioner was presented with documents to sign, including a *sui generis* supplemental employment agreement. Petitioner read these documents closely. Petitioner was previously the founder of a technology company. In that role, he was wary of certain types of arbitration agreements, and he was specifically looking for such language, because he wished to avoid arbitration related to his employment at ByteDance. None of the documents contained an arbitration clause.

10. Petitioner was only shown one hard copy of each document before signing. After he signed, the documents were taken from him without returning a copy to him. As of the date on which his Verified Complaint was filed, ByteDance had steadfastly refused Petitioner's multiple requests that he be furnished with a copy of any purported arbitration agreement.

11. Petitioner's operative complaint was filed on May 12, 2023. Defendants removed the litigation to federal court and immediately filed a motion

to compel arbitration. Defendants submitted a document called Employee Confidentiality Inventions and Assignment Agreement (“ECIAA”) in support of their motion. Petitioner denied having signed the ECIAA at the time and continues to deny signing it to this day.

12. Petitioner’s operative complaint sought declaratory and injunctive relief with respect to the ECIAA pursuant to California Code of Civil Procedure Section 1060.

13. The District Court subsequently entered an order compelling arbitration and dismissing Petitioner’s action. The Court of Appeals dismissed the Petitioner’s appeal as moot, holding that Petitioner’s participation in the arbitration had waived any claim that no valid and enforceable arbitration agreement was ever signed.

14. Undersigned counsel, a member of the Bar of this Court, was retained as Petitioner’s counsel for purposes of this petition for writ of certiorari on August 14, 2026 – only thirteen days from the date on which the petition would be due absent an extension of time. This extensive record in this case involves many complex issues which will require study. In addition, I have my obligations as caregiver to my wife, which will require significant time over the next month, as well as other appellate assignments.

15. Wherefore, Petitioner respectfully requests that an order be entered extending the time to file a petition for writ of certiorari to Monday, October 26, 2026.

Dated: August 27, 2026

/s/ Kirk C. Jenkins

Kirk C. Jenkins

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PROOF OF SERVICE

At the time of service I was at least 18 years of age and not a party to this legal action. My email address used to e-serve is kirkchristopherjenkins@gmail.com. I served by email a copy of the following document: Extension of Time Request.

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/s/ Kirk C. Jenkins

Kirk C. Jenkins