

IN THE SUPREME COURT OF THE UNITED STATES

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No. 23-970

NVIDIA CORPORATION, ET AL., PETITIONERS

v.

E. OHMAN J: OR FONDER AB, ET AL.

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ON WRIT OF CERTIORARI  
TO THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

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MOTION OF THE UNITED STATES  
FOR LEAVE TO PARTICIPATE IN ORAL ARGUMENT AS AMICUS CURIAE  
AND FOR DIVIDED ARGUMENT

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Pursuant to Rules 21 and 28 of the Rules of this Court, the Solicitor General, on behalf of the United States, respectfully moves for leave to participate in the oral argument in this case as amicus curiae and for divided argument, and respectfully requests that the United States be allowed ten minutes of argument time. The United States has filed a brief as amicus curiae supporting respondents. Respondents have consented to this motion and agreed to cede ten minutes of their argument time to the United States. Accordingly, if this motion were granted, the argument time would be divided as follows: 30 minutes for petitioners, 20 minutes for respondents, and 10 minutes for the United States.

This case concerns the heightened pleading standard for private securities-fraud class actions under the Private Securities Litigation Reform Act of 1995 (PSLRA), Pub. L. No. 104-67, 109 Stat. 737. The court of appeals held that respondents satisfied the PSLRA's requirement to "state with particularity facts giving rise to a strong inference that [petitioners] acted with" scienter. 15 U.S.C. 78u-4(b)(2). The court of appeals also held that respondents' allegations of falsity, which were drawn in part from an expert report, satisfied the PSLRA's requirement to "state with particularity all facts" supporting allegations based on "information and belief." 15 U.S.C. 78u-4(b)(1).

The United States has a strong interest in the proper construction of the PSLRA because "meritorious private actions" are "an essential supplement to criminal prosecutions and civil enforcement actions brought, respectively, by the Department of Justice and the Securities and Exchange Commission." Tellabs, Inc. v. Makor Issues & Rights, Ltd., 551 U.S. 308, 313 (2007). The United States has therefore previously presented oral argument as amicus curiae in cases regarding the interpretation and application of the PSLRA. See, e.g., Halliburton Co. v. Erica P. John Fund, Inc., 573 U.S. 258 (2014); Amgen Inc. v. Connecticut Retirement Plans and Trust Funds, 568 U.S. 455 (2013); Matrixx v. Siracusano, 563 U.S. 27 (2011); Merck & Co., Inc. v. Reynolds, 559 U.S. 633 (2010); Tellabs, 551 U.S. 308.

Respectfully submitted.

ELIZABETH B. PRELOGAR  
Solicitor General  
Counsel of Record

OCTOBER 2024