

IN THE SUPREME COURT OF THE UNITED STATES

No. A-_____

ARBOR GLOBAL STRATEGIES, LLC,
APPLICANT

v.

SAMSUNG ELECTRONICS CO., LTD, TAIWAN SEMICONDUCTOR
MANUFACTURING COMPANY, LTD.,

KATHERINE K. VIDAL, DIRECTOR,
UNITED STATES PATENT AND TRADEMARK OFFICE

ARBOR GLOBAL STRATEGIES, LLC,
APPLICANT

v.

XILINX, INC., TAIWAN SEMICONDUCTOR MANUFACTURING COMPANY, LTD.,

KATHERINE K. VIDAL, DIRECTOR,
UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION FOR EXTENSION OF TIME
WITHIN WHICH TO FILE A PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT

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

Pursuant to 28 U.S.C. § 2101(c) and Rules 13.5, 22, and 30 of
this Court, Applicant Arbor Global Strategies, LLC,¹ respectfully

¹ Rule 29.6 Statement: Applicant Arbor Global Strategies, LLC, is
a wholly owned subsidiary of Arbor Company LLLP.

requests a 30-day extension of time, to and including November 13, 2024, in which to file a petition for a writ of certiorari. Unless an extension is granted, Applicant's deadline for filing the petition will be October 14, 2024. This application is timely because it is made at least ten days before the petition would be due. No prior application has been made in this case. In support of this request, Applicant states the following:

1. The United States Court of Appeals for the Federal Circuit issued a summary order and entered judgment on July 16, 2024 (Exhibit A). The jurisdiction of this Court would be invoked under 28 U.S.C. § 1254(1).

2. This case arises from the inter partes review and invalidation of claims in four of Applicant's patents directed to reconfigurable computer processors. Applicant sued for infringement in two federal district court actions; in response, the defendants (Samsung Electronics, Co., Taiwan Semiconductor Manufacturing Company, and Xilinx, Inc.) filed a total of seven petitions for inter partes review before the Patent Trial and Appeal Board ("PTAB"). A PTAB panel instituted inter partes review proceedings. The same PTAB panel that instituted review then conducted each of the inter partes review proceedings and issued final written decisions invalidating all 107 of the challenged claims.

3. The America Invents Act vests the Director of the U.S. Patent and Trademark Office with unreviewable discretion to institute inter partes review. Cuozzo Speed Techs. v. Com. for Intell. Prop., 579 U.S. 261, 273 (2016). The Director has, in turn, delegated that power to a PTAB panel made up of the same members who, if institution is granted, will decide the merits. The Administrative Procedure Act's (APA's) separation-of-functions provision bars "[a]n employee or agent engaged in the performance of investigative or prosecuting functions for an agency in a case" from "participat[ing] in the decision, recommended decision, or agency review." 5 U.S.C. § 554(d)(2). The petition for a writ of certiorari will argue that Section 554(d)(2) forbids the same PTAB panel that institutes inter partes review from deciding the merits. The issue is of great economic significance: billions of dollars may be at stake in proceedings heard by the PTAB, and inter partes review is the dominant America Invents Act proceeding. See Ethicon Endo-Surgery, Inc. v. Covidien LP, 812 F.3d 1023, 1037 (Fed. Cir. 2016) (Newman, J., dissenting) (America Invents Act post-grant proceedings have "become the new frontier of patent litigation").

4. There is good cause for the requested extension. This case presents complex and important legal issues that implicate the APA's fundamental-fairness protections in inter partes review proceedings -- proceedings that may invalidate numerous patents backed by significant investments. Furthermore, Applicant's

counsel have substantial obligations in the interim period. Counsel of record has a brief that is currently due in the Federal Circuit on October 28, 2024 in Consumeron, LLC v. Maplebear Inc., Fed. Cir. No. 24-1703. And Paul Andre, Lisa Kobialka, and James Hannah, who were also Applicant's counsel in courts and agency below, are currently trial counsel in Acceleration Bay, LLC v. Amazon Web Services, Inc., No. 22-904 (D. Del.), which commenced on September 23, 2024, and is expected to last at least a week. Additional time is therefore needed to prepare the petition in this case.

For the foregoing reasons, Applicant requests that the time for filing a petition for a writ of certiorari in this case be extended by 30 days, to and including November 13, 2024.

Respectfully submitted.

PAUL J. ANDRE
LISA KOBIALKA
JAMES R. HANNAH
KRAMER LEVIN NAFTALIS &
FRANKEL LLP
333 Twin Dolphin Drive,
Ste. 700
Redwood Shores, CA 94065
New York, NY 10036
(650) 752-1700

DANIEL N. LERMAN
Counsel of Record
JEFFREY C. THALHOFER
KRAMER LEVIN NAFTALIS &
FRANKEL LLP
2000 K Street, NW, 4th Fl.
Washington, DC 20006
(202) 775-4500
dlerman@kramerlevin.com

EXHIBIT A

NOTE: This disposition is nonprecedential.

**United States Court of Appeals
for the Federal Circuit**

ARBOR GLOBAL STRATEGIES, LLC,
Appellant

v.

**SAMSUNG ELECTRONICS CO., LTD., TAIWAN
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LTD.,**
Appellees

**KATHERINE K. VIDAL, UNDER SECRETARY OF
COMMERCE FOR INTELLECTUAL PROPERTY
AND DIRECTOR OF THE UNITED STATES
PATENT AND TRADEMARK OFFICE,**
Intervenor

2022-1465, 2022-1466, 2022-1467

Appeals from the United States Patent and Trademark
Office, Patent Trial and Appeal Board in Nos. IPR2020-
01020, IPR2020-01021, IPR2020-01022.

ARBOR GLOBAL STRATEGIES, LLC,
Appellant

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**XILINX, INC., TAIWAN SEMICONDUCTOR
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Appellees

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Intervenor

2022-1549, 2022-1550, 2022-1551, 2022-1552

Appeals from the United States Patent and Trademark Office, Patent Trial and Appeal Board in Nos. IPR2020-01567, IPR2020-01568, IPR2020-01570, IPR2020-01571.

JUDGMENT

DANIEL NOAH LERMAN, Kramer Levin Naftalis & Frankel LLP, Washington, DC, argued for appellant. Also represented by PAUL J. ANDRE, JAMES R. HANNAH, LISA KOBIALKA, Redwood Shores, CA, JEFFREY PRICE, New York, NY.

JOHN C. O'QUINN, Kirkland & Ellis LLP, Washington, DC, argued for appellees Samsung Electronics Co., Ltd., Taiwan Semiconductor Manufacturing Company, Ltd. Samsung Electronic Co., Ltd. also represented by WILLIAM H. BURGESS, CHRISTOPHER MIZZO; MEREDITH ZINANNI, Chicago, IL.

JAMES M. GLASS, Quinn Emanuel Urquhart & Sullivan,

LLP, New York, NY, for appellee Taiwan Semiconductor Manufacturing Company, Ltd. Also represented by ERIC HUANG.

JEFFREY SHNEIDMAN, Fish & Richardson P.C., Boston, MA, argued for appellee Xilinx, Inc. Also represented by KENNETH WAYNE DARBY, DAVID M. HOFFMAN, Austin, TX; JOHN A. DRAGSETH, Minneapolis, MN.

DANA KAERSVANG, Civil Division, United States Department of Justice, Washington, DC, argued for intervenor. Also represented by BRIAN M. BOYNTON, JOSHUA MARC SALZMAN; MICHAEL S. FORMAN, FARHEENA YASMEEN RASHEED, MICHAEL TYLER, Office of the Solicitor, United States Patent and Trademark Office, Alexandria, VA.

THIS CAUSE having been heard and considered, it is

ORDERED and ADJUDGED:

PER CURIAM (HUGHES, LINN, and STARK, *Circuit Judges*).

AFFIRMED. See Fed. Cir. R. 36.

ENTERED BY ORDER OF THE COURT

July 16, 2024
Date



Jarrett B. Perlow
Clerk of Court