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In The  
**Supreme Court of the United States**  
October Term 2024

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**CICEL (BEIJING) SCIENCE & TECHNOLOGY CO., LTD.,**  
*Applicant/Petitioner,*

v.

**MISONIX, INC.,**  
*Respondent.*

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**Application for an Extension of Time Within  
Which to File a Petition for a Writ of Certiorari to the  
United States Court of Appeals for the Second Circuit**

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**APPLICATION TO THE HONORABLE  
JUSTICE SONIA SOTOMAYOR, ASSOCIATE JUSTICE,  
AS CIRCUIT JUSTICE**

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## APPLICATION FOR AN EXTENSION OF TIME

To the Honorable Sonia Sotomayor, Associate Justice of the United States and Circuit Justice for the United States Court of Appeals for the Second Circuit:

1. Pursuant to 28 U.S.C. § 2101(c) and Supreme Court Rule 13.5, Applicant Cichel (Beijing) Science & Technology Co., Ltd. (“Cichel”) respectfully requests a 45-day extension of time within which to petition for a writ of certiorari, up to and including Monday, September 9, 2024. The United States Court of Appeals for the Second Circuit issued a summary order in Cichel’s case and entered judgment on March 6, 2024. A copy of the summary order is attached as Exhibit A. Cichel subsequently filed for a petition for rehearing or rehearing en banc, which the Second Circuit denied on April 26, 2024, attached as Exhibit B. Under Supreme Court Rules 13.1, 13.3, and 30.1, a petition for a writ of certiorari is due to be filed on or before July 25, 2024. This application has been filed on July 12, 2024, more than ten days before the time for filing the petition is set to expire. See Sup. Ct. R. 13.5. This Court has jurisdiction over any timely filed petition for certiorari under 28 U.S.C. § 1254(1).

2. An extension is warranted given that Sidley Austin LLP was only recently retained by Cichel and new counsel require time to review the voluminous record compiled in the courts below. This case arises out of accusations that Cichel violated the Foreign Corrupt Practices Act, which Cichel’s former commercial counterparty, Defendant Misonix, Inc. (“Misonix”), asserted as a basis to prematurely terminate a fixed-term deal. In the proceedings below, Cichel raised

significant legal issues regarding the district court’s and court of appeals’ improper application of the well-established standards for summary judgment, including drawing inferences adverse to the non-moving party and resolving clearly material disputes of fact. See *Tolan v. Cotton*, 572 U.S. 650, 659 (2014) (per curiam) (summarily reversing the decision of the court of appeals where “the opinion below reflects a clear misapprehension of summary judgment standards in light of our precedents”); *Schnell v. State Farm Lloyds*, 98 F.4th 150, 158 (5th Cir. 2024) (vacating grant of summary judgment on breach of contract claim where “the district court erred in choosing one interpretation of [email correspondence] over the other”); *Castro v. DeVry Univ., Inc.*, 786 F.3d 559, 574 (7th Cir. 2015) (admonishing district court for drawing “an inference against the non-moving party” by accepting the moving party’s reading of emails, which “is of course not appropriate at the summary judgment stage.”).

3. In order to prepare the petition for a writ of certiorari counsel require additional time to review the record, to develop appropriate grounds for review in this Court, and to properly consult with Cikel, which is located in China and whose principal requires assistance in order to communicate about the case in the English.

4. Additionally, an extension is necessary to accommodate counsels’ responsibilities and competing deadlines in other pending matters:

- Appellate counsel Gordon Todd is currently working on briefing an appeal to the Fourth Circuit from the Eastern District of Virginia’s

grant of a motion to dismiss in a takings matter; briefing an appeal to the Supreme Court of Virginia in a related matter; briefing opposition to a motion to dismiss in the Eastern District of Virginia; preparing for post-judgment proceedings and appeal to the Tenth Circuit in an environmental matter pending in the Northern District of Oklahoma; concluding extensive fact discovery in a False Claims Act matter in the District of New Jersey; preparing for a trial commencing in October in a Comprehensive Environmental Response, Compensation, and Liability Act matter pending in the District of Rhode Island; preparing for hearings in two confidential private arbitrations; and litigating a trade embargo matter before the Court of International Trade.

- Appellate counsel David Carpenter is currently working on briefing in the Ninth Circuit on a petition for writ of mandate under the Criminal Victims Right Act; summary judgment briefing in two matters in the California Superior Court; and trial preparation for a third superior court matter headed to trial at the end of the summer. In addition, Mr. Carpenter has a pre-paid trip abroad during the time in which the petition would otherwise be due.

## CONCLUSION

For the foregoing reasons, Cikel respectfully requests that an order be entered extending the time to file a petition for a writ of certiorari by 45 days, up to and including September 9, 2024.

DATED: July 12, 2024.

Respectfully submitted,

/s/ Gordon D. Todd

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