

IN THE SUPREME COURT OF THE UNITED STATES

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No. A-\_\_\_\_\_

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NEXSTEP, INC.,  
APPLICANT

v.

COMCAST CABLE COMMUNICATIONS, LLC

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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

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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 NexStep, Inc.,<sup>1</sup> respectfully requests a 30-  
day extension of time, to and including May 2, 2025, 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 April  
2, 2025. 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:

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<sup>1</sup> Rule 29.6 Statement: Applicant NexStep, Inc., is a privately held  
company and no publicly-traded company holds 10% or more of its  
stock.

1. The United States Court of Appeals for the Federal Circuit issued an opinion and entered judgment on October 24, 2024 (Exhibit A). The court of appeals denied Applicant's timely petition for rehearing en banc on January 2, 2025 (Exhibit B). The jurisdiction of this Court would be invoked under 28 U.S.C. § 1254(1).

2. This case arises from a judgment of non-infringement, entered by the district court and affirmed by the Court of Appeals, notwithstanding the jury's contrary decision. Applicant sued Comcast Cable Communications, LLC ("Comcast"), for infringing nine of its patents, including the single patent at issue here, U.S. Patent No. 8,280,009 ("the '009 patent"). The '009 patent is directed to a "concierge device" that streamlines requests for consumer-electronics technical support by reducing the request to a "single action." Slip op. 15, 18. Comcast's product performs much the same task, initiated by "several user button pushes"; at trial, Comcast argued that its device did not infringe because multiple button pushes are not a "single action." Slip op. 18. The jury agreed that Comcast's device did not literally infringe the '009 patent, but found infringement under the doctrine of equivalents. The district court, though, overturned that finding on the ground that Applicant had not offered "the particularized testimony and linking argument required by [Federal Circuit]

precedent.” Slip op. 18. The Court of Appeals affirmed over Judge Reyna’s dissent. See Slip op. 68-77.

3. The doctrine of equivalents exists “[t]o temper unsparring logic and prevent an infringer from stealing the benefit of the invention’”; “a patentee may invoke this doctrine to proceed against the producer of a device ‘if it performs substantially the same function in substantially the same way to obtain the same result.’” Graver Tank & Mfg. Co. v. Linde Air Prods. Co., 339 U.S. 605, 608 (1950) (quoting Sanitary Refrigerator Co. v. Winters, 280 U.S. 30, 42 (1929)). Equivalence “is not the prisoner of a formula and is not an absolute to be considered in a vacuum.” Id. The petition for a writ of certiorari will argue that the Federal Circuit has nonetheless imposed a rigid “particularized testimony and linking argument” requirement -- and, in imposing that requirement, has taken the equivalence determination away from juries.

4. There is good cause for the requested extension. This case presents important legal issues that go to the heart of the patent bargain. Furthermore, Applicant’s counsel has substantial obligations in the interim period. Counsel of record has a brief that is currently due in the Sixth Circuit on March 5, 2025, in Karim Codrington v. Jay Dolak, et al., 6th Cir. No. 24-5831; a brief that is currently due in the Federal Circuit on March 21, 2025, in Centripetal Networks, LLC v. Keysight Technologies,

Inc., Fed. Cir. No. 24-2246; and a brief that is currently due in the Ninth Circuit on March 24, 2025, in Stephen Rossi and Kim Stevenson, et al. v. Gregory W. Becker, et al., 9th Cir. No. 24-6600. Applicant therefore requests an extension to prepare a petition that will best assist the Court's consideration.

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 May 2, 2025.

Respectfully submitted.

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