No. 24A_____

In The

# Supreme Court of the United States

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PARKERVISION, INC.,

*Applicants,*

v.

TCL INDUSTRIES HOLDINGS CO., LTD., LG ELECTRONICS INC.,

*Respondents.*

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

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August 23, 2024

## CORPORATE DISCLOSURE STATEMENT

Pursuant to Supreme Court Rule 29.6, Applicant ParkerVision, Inc. states that it has no parent corporation and that no publicly held company owns 10% or more of Applicant's stock.

## APPLICATION

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

Pursuant to 28 U.S.C. § 2101(c) and Rule 13.5 of the Rules of this Court, applicant ParkerVision, Inc. respectfully requests a 60-day extension of time, to and including November 2, 2024, within which to file a petition for a writ of certiorari to review the judgment of the United States Court of Appeals for the Federal Circuit in this case.

Unless extended, the time to file a petition for a writ of certiorari will expire on September 3, 2024. The jurisdiction of this Court will be invoked under 28 U.S.C. § 1254(1). Copies of the November 21, 2022 final written decision from the United States Patent Trial and Appeal Board ("the Board") and the Rule 36 affirmance of the United States Court of Appeals for the Federal Circuit are attached as Exhibits A and B, respectively.

1. This case concerns the Board's invalidation of ParkerVision's United States Patent No. 7,110,444. ParkerVision invented proprietary radio frequency (RF) technologies that enable advanced, highly integrated solutions for current and next-generation communications networks. ParkerVision's solutions introduced a new signal-processing paradigm that addressed the needs for smaller, more efficient, higher-performing radio-based devices, capable of supporting multiple frequency bands and advanced communication protocols. More specifically, ParkerVision's technology uses energy sampling to transfer an incoming signal's energy, which is then integrated to form a baseband signal from the transferred

energy. With energy sampling, non-negligible amounts of a signal's energy are transferred and accumulated in a storage device wherein controlled charge and discharge cycles form a down-converted baseband signal. The energy sampling method improves RF receiver performance, reduces power consumption, and creates an efficient system with greater dynamic range, sensitivity, and reduced physical footprint.

The patent-at-issue covers an energy sampling system for down-converting an electromagnetic signal having complex modulations.

The Board found the claims addressing this innovation obvious, and the Federal Circuit affirmed.

The inter partes proceedings that led to the invalidation of ParkerVision's patent, however, suffer from both constitutional and statutory defects—defects that are particularly evident in light of two decisions this Court issued at the conclusion of its last Term (and after the Federal Circuit's decision in this case). ParkerVision anticipates filing a petition for certiorari asking the Court to correct these constitutional and statutory defects.

a. This Court's decision in *Securities & Exchange Commission v. Jarkesy*, 144 S. Ct. 2117 (2024), narrowed the "public rights" exception to the Seventh Amendment's guarantee that all legal claims must be resolved by a jury. *See id.* at 2131–34. Under *Jarkesy*, any suit "in the nature of an action at common law . . . presumptively concerns private rights, and an adjudication by an Article III court is mandatory." *Id.* at 2132. At the time of the nation's founding, actions to adjudicate

patent validity were "traditional[ly]," *id.*, resolved in common-law courts. *See Oil States Energy Servs., LLC v. Greene's Energy Grp., LLC*, 584 U.S. 325, 349 (2018) (Gorsuch, J., dissenting). Under the narrow articulation of the public-rights doctrine adopted in *Jarkesy*, therefore, patent validity is a matter that must be adjudicated by a jury, not an administrative body. Reconsideration of this Court's contrary holding in *Oil States* is therefore warranted.

b. The Board proceedings leading to the invalidation of ParkerVision's patent also violated 35 U.S.C. § 312(a)(3), which requires an *inter partes* review petition to "identif[y], in writing and with particularity, each claim challenged, the grounds on which the challenge to each claim is based, and the evidence that supports the grounds for the challenge to each claim." The petitions here did not do so, and the Board found the claims unpatentable only by allowing the petitioners to backfill gaps in their petitions after the *inter partes* review had already begun. Now that this Court has held that federal courts owe no deference to the Patent Office's interpretation of the statutes governing *inter partes* review, *compare Cuozzo Speed Techs., LLC v. Lee*, 579 U.S. 261, 279 (2016) (deferring to the Patent Office's interpretation of these statutes under *Chevron*), *with Loper Bright Enters. v. Raimondo*, 144 S. Ct. 2244 (2024) (overruling *Chevron*), this Court's review is needed to determine whether the Board may, consistent with § 312(a)(3), supplement substantively deficient petitions once an *inter partes* review has already begun.

2. Good cause exists for an extension of time to prepare a petition for a writ of certiorari in this case. The Court's *Jarkesy* and *Loper* decisions issued only recently, and additional time for counsel to analyze those decisions and their impact on these proceedings and prepare a petition is warranted. Moreover, undersigned counsel has, and has had, several other matters with proximate due dates, including patent owner's preliminary responses due in IPR2024-00934, IPR2024-00935, IPR2024-00936, and IPR2024-00796, a response to a motion to dismiss in *SoundClear Technologies LLC v. Google LLC*, No. 2:24-cv-00321 (E.D. Va.), filed August 5, 2024, dispositive motions due in *NetSocket, Inc. v. Cisco Systems, Inc.*, No. 2:22-cv-00172 (E.D. Tex.), an opposition to a preliminary injunction motion and hearing before the United States District Court for the District of Delaware in *Novartis Pharmaceuticals Corporation v. MSN Pharmaceuticals, Inc., et al.*, C.A. No. 22-1395-RGA and *In re Entresto (Sacubitril/Valsartan) Patent Litigation*, C.A. No. 20-2930-RGA, and an emergency Temporary Restraining Order motion and expedited appeal to the United States Court of Appeals for the Federal Circuit in *Novartis Pharmaceuticals Corporation v. MSN Pharmaceuticals, Inc.*, Case No. 24-2211 (Fed. Cir.) and *Novartis Pharmaceuticals Corporation v. Torrent Pharma Inc.,* Case No. 23-2218 (Fed. Cir.).

For the foregoing reasons, the application for a 60-day extension of time, to and including November 2, 2024, within which to file a petition for a writ of certiorari in this case should be granted.

Respectfully submitted,

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