

No.

In the

Supreme Court of the United States

Learning Resources, Inc., et al.,

Petitioners,

v.

Donald J. Trump, President of the United States, in his official capacity, et al.

*ON PETITION FOR A WRIT OF CERTIORARI BEFORE JUDGMENT
TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT*

**MOTION TO EXPEDITE CONSIDERATION OF THE
PETITION FOR A WRIT OF CERTIORARI BEFORE JUDGMENT**

Pursuant to Supreme Court Rule 21, Petitioners Learning Resources, Inc. and hand2mind, Inc., hereby request expedited consideration of their petition for a writ of certiorari before judgment to the United States Court of Appeals for the District of Columbia, filed concurrently with this motion, as well as expedited consideration of this motion. Petitioners have conferred with Respondents, who oppose this motion.

Asserting authority under the International Emergency Economic Powers Act (“IEEPA”), the President with the stroke of a pen increased the Nation’s effective tariff rate tenfold to the highest it has been in more than a century. No President in

IEEPA's history has relied on that law to issue *any* tariff. Yet the current Administration has used it to impose sweeping tariffs to reshape the national economy and global trade policy, raising taxes on Americans by hundreds of billions of dollars.

Neither the Constitution nor IEEPA gives the President such unilateral power. Indeed, IEEPA does not give the President any tariffing power whatsoever, as every presidential administration until this one has understood. Both courts to have adjudicated the merits have now declared the IEEPA tariffs unlawful—the federal district court below and a three-judge panel of the Court of International Trade (“CIT”)—on two different grounds. But as of last week, both lower court injunctions have been stayed pending appeal. Even as these punishing tariffs cause American businesses and consumers to bleed billions of dollars each month, there will be no relief any time soon.

This case indisputably presents a question of paramount importance and urgency: whether IEEPA authorizes tariffs. That pure question of law, implicating core separation-of-powers concerns, is in fact the only merits question that the government believes courts have the power to answer. It will inevitably fall to this Court to resolve it definitively. In light of the tariffs' massive impact on virtually every business and consumer across the Nation, and the unremitting whiplash caused by the unfettered tariffing power the President claims, challenges to the IEEPA tariffs cannot await the normal appellate process (even on an expedited

timeline). This Court should grant certiorari before judgment now so this case can be briefed over the summer and argued as soon as possible.

Petitioners therefore respectfully request that this Court (i) expedite its consideration of this motion; (ii) expedite its consideration of the petition for certiorari before judgment, including by ordering a response by June 23 to allow the Court to consider the petition at its next scheduled conference (June 26) or any subsequently added conference before it recesses for the summer; and (iii) grant the petition and set a briefing schedule to allow oral argument at the start of the next Term (including in a potential September sitting).

STATEMENT

1. The imposition of tariffs is a distinctly legislative power assigned to Congress. U.S. CONST. art. I, § 8, cl. 1 (granting Congress the “[p]ower [t]o lay and collect Taxes, Duties, Imposts, and Excises”). When Congress has delegated that power, it has done so in a series of carefully circumscribed statutory enactments, all codified under Title 19 of the U.S. Code (“Customs Duties”). Under IEEPA, which is codified in Title 50, if the President declares a national emergency with respect to an “unusual and extraordinary threat,” the President may (in pertinent part) “regulate *** importation” to deal with that threat. 50 U.S.C. §§ 1701(a), 1702(a)(1). In the nearly five decades since IEEPA’s enactment, no President has ever invoked IEEPA’s power to “regulate *** importation” as authority to impose tariffs.

2. That changed in February 2025, when President Trump, in a series of executive orders, claimed authority under IEEPA to impose expansive tariffs. The

President began by imposing 20% tariffs on China on the ground that China was not taking adequate steps to stem the flow of illicit drugs into the United States. On April 2, 2025, the President took an even more dramatic step under IEEPA, imposing on virtually all trading partners “reciprocal” tariffs consisting of (i) a 10% universal tariff, and (ii) an additional and higher country-specific tariff ranging from 11% to 50%. While the President ultimately suspended for 90 days the country-specific tariffs on all countries except for China, he raised the April 2 tariffs on China to 125%, resulting in a 145% minimum IEEPA tariff on China. Over a month later, on May 14, the President paused the country-specific tariff on China for a period of 90 days (leaving total IEEPA tariffs of 30% in effect currently).

3. The financial impact of the President’s IEEPA tariffs cannot be overstated. Administration officials (including the President) and outside experts alike estimate the IEEPA tariffs will raise hundreds of billions (if not trillions) of dollars in revenue.¹ That money will not be paid by foreign governments; it will be paid primarily by

¹ Bailey Schulz, *Trump is rolling out more tariffs this month. Where does the tariff money go?*, USA TODAY (Apr. 4, 2025), <https://www.usatoday.com/story/money/2025/04/03/trump-tariffs-where-will-money-go/82792578007/>; Richard Rubin, *Bessent Says Tariff Revenue Could Reach \$600 Billion Annually*, WALL ST. J. (Apr. 4, 2025), <https://www.wsj.com/livecoverage/stock-market-tariffs-trade-war-04-04-2025/card/bessent-says-tariff-revenue-could-reach-600-billion-annually-QJfDGCPYDY1C72Ljg1pt>; Erica York & Alex Durante, *Trump Tariffs: Tracking The Economic Impact of the Trump Trade War*, THE TAX FOUND. (June 2, 2025), <https://taxfoundation.org/research/all/federal/trump-tariffs-trade-war/>.

American businesses (and ultimately American consumers), equating to the largest peacetime tax increase in U.S. history.²

Petitioners have already felt the devastating impacts that accumulate each day. Petitioners' businesses rely on imports from China (as well as other countries affected by the IEEPA tariffs). Yet the tariff rates "are now so high as to effectively prevent importation" from China. Pet. App. 55a. Small businesses around the country face similarly escalating harms and paralyzing uncertainty.³

4. On April 22, 2025, Petitioners brought suit challenging the President's authority to issue the IEEPA tariffs. The Government moved to transfer the case to the CIT pursuant to 28 U.S.C. § 1581(i)(1), which gives that court exclusive jurisdiction over "any civil action commenced against the United States, its agencies, or its officers, that arises out of any law of the United States providing for *** tariffs[.]" Petitioners moved for a preliminary injunction and opposed transfer on the ground that IEEPA is not a "law of the United States providing for *** tariffs."

After full briefing and a hearing on both motions, the district court granted Petitioners a preliminary injunction, finding they had shown both a likelihood of success and irreparable harm. On the former, the district court held that IEEPA does

² Eric Boehm, *Peter Navarro Says Tariffs Will Be a \$6 Trillion Tax Increase, but Also a Tax Cut*, REASON MAG. (Mar. 31, 2025), <https://reason.com/2025/03/31/peter-navarro-says-tariffs-will-be-a-6-trillion-tax-increase-but-also-a-tax-cut/>.

³ Lisa Eadicicco, *Small businesses struggle under Trump's tariff whiplash: 'I'm so angry that my own government has done this to me'*, CNN (June 1, 2025), <https://www.cnn.com/2025/06/01/business/small-businesses-struggle-under-trumps-tariffs>.

not authorize or otherwise “provid[e] for” tariffs—meaning both that the district court had jurisdiction and the challenged IEEPA tariffs were unlawful. On the latter, the district court determined that not only were the tariffs irreparably harming Petitioners, but they posed “an existential threat to [Petitioners’] businesses.” Pet. App. 37a.

On May 30, Defendants filed a notice of appeal and, three days later, filed motions to stay the preliminary injunction in both the district court and the D.C. Circuit. The following day, without seeking a response from Petitioners, the district court stayed its injunction “pending disposition of the pending appeal before the United States Court of Appeals for the District of Columbia Circuit.” Pet. App. 45a. In the D.C. Circuit, Respondents then moved to withdraw their stay motion as moot, and Petitioners sought—over Respondents’ objection—a briefing schedule that would align with the Federal Circuit’s schedule in the parallel appeals of the CIT’s judgment. *See* Pet’rs Mot. to Govern 2, *Learning Resources, Inc. v. Trump*, No. 25-5202 (D.C. Cir. June 12, 2025). (The D.C. Circuit has not ruled as of this morning’s printer deadline.)

ARGUMENT

Expedited consideration of the petition for certiorari before judgment is warranted to permit this Court to resolve the question presented as soon as possible and end the crippling uncertainty the IEEPA tariffs have caused nationwide. As explained in the concurrently filed petition, this case should be considered now

because it involves matters of “staggering” legal, economic, and political significance. *Biden v. Nebraska*, 600 U.S. 477, 489, 502 (2023); *see* Sup. Ct. R. 11.

1. Invoking IEEPA, the President in one day unilaterally raised the level of U.S. import duties to the highest it has been in more than 100 years, even though no President in IEEPA’s history has relied on that law to issue *any* tariff. In recent terms, this Court has granted certiorari before judgment to permit prompt review in cases of similarly (or less) far-reaching national importance. *See, e.g., Department of Educ. v. Brown*, 600 U.S. 551, 556 (2023); *Nebraska*, 600 U.S. at 489; *United States v. Texas*, 599 U.S. 670, 675 (2023); *Whole Woman’s Health v. Jackson*, 595 U.S. 30, 35 (2021); *Department of Com. v. New York*, 588 U.S. 752, 766 (2019).

Throughout this litigation, Respondents themselves have emphasized the “significance of these issues.” Dkt No. 41, at 4 (D.D.C. June 2, 2025). Respondents submitted to the district court declarations from no less than four Cabinet members—the Secretary of State, Secretary of the Treasury, Secretary of Commerce, and U.S. Trade Representative—to highlight the consequential nature of the issues at play. *See* Pet. App. 41a-42a. Only this Court can rule with the necessary authority to resolve them.

Petitioners also need a swift and conclusive determination. The district court recognized the significant “irreparable harm” that Petitioners face—indeed, the “existential threat to their businesses.” Pet. App. 37a; *see id.* at 38a-39a (rejecting government’s argument that such “harms are speculative and conclusory”). “And because their financial recovery is limited to the value of any tariffs they wrongly

pay, [Petitioners] will not be able to recover lost profits, lost customers, or the additional costs of finding replacements for high-tariff imports.” Pet. App. 38a-39a (internal quotation marks, citation, and alteration omitted).

The IEEPA tariffs are causing enormous uncertainty and financial distress for American businesses and consumers across the country. According to an analysis by JP Morgan, the tariffs “would hike taxes on Americans by \$660 billion a year, the largest tax increase in recent memory by a longshot,” and “cause prices to surge” by “adding 2% to the Consumer Price Index.”⁴ Middle market firms are seeing declines in gross revenue and net earnings, and a 20% drop in capital expenditures.⁵ Smaller businesses are being pummeled to the brink of bankruptcy.⁶ Because the lower courts’ injunctions have been stayed, those nationwide harms will only mount until this Court finally settles the matter.

2. This case presents the paramount question underlying challenges to the IEEPA tariffs: whether IEEPA authorizes tariffs. Respondents argue that it is the *only* question courts have the power to decide. That pure question of statutory interpretation is well ventilated in the district court’s thorough opinion and the ample briefing to date across multiple cases. Addressing this central question now has the

⁴ David Goldman & Elisabeth Buchwald, *Trump’s tariffs will probably plunge the global economy into recession this year, JPMorgan analysts says*, CNN (Apr. 2, 2025), <https://www.cnn.com/business/live-news/tariffs-trump-news-04-02-25>.

⁵ Emily Peck, *Midsized businesses struggle with high tariff costs*, AXIOS (June 12, 2025), <https://www.axios.com/2025/06/12/trump-tariffs-inflation-businesses>.

⁶ *E.g.*, ‘A matter of survival’: Small Businesses Speak Out on Tariffs, U.S. CHAMBER OF COM. (last updated: June 6, 2025), <https://www.uschamber.com/small-business/american-workers-businesses-consumers-trade-tariffs>.

added benefit of simultaneously resolving the principal merits issue and disposing of a jurisdictional question that has split the courts: whether the federal district courts have jurisdiction (because IEEPA does *not* provide for tariffs) or whether the CIT has jurisdiction (because IEEPA provides for tariffs). *See* 28 U.S.C. § 1581(i)(1).

In the best-case scenario, the D.C. Circuit (where no merits brief has been filed or argument scheduled) will not issue a decision until late summer or early fall. After a petition for certiorari, and subsequent merits briefing, oral argument in this Court could be pushed to the end of 2025 (or later). That is an untenably long time to allow the American economy to be reshaped by unlawful tariffs.

Respondents have already acknowledged that, at some point, a writ of certiorari before judgment may be necessary. *See* Resp. Mot. to Govern 5, *Learning Resources, Inc. v. Trump*, No. 25-5202 (D.C. Cir. June 13, 2025). There is no reason to delay. The costs of waiting for a full merits opinion from the D.C. Circuit far outweigh any benefits.

3. This Court should therefore grant certiorari before judgment now and order briefing to be completed in time for oral argument at the start of the October 2025 Term—or sooner, such as a special earlier sitting in September.

CONCLUSION

For the foregoing reasons, Petitioners respectfully request that this Court (i) expedite its consideration of this motion; (ii) expedite its consideration of the petition for certiorari before judgment, including by ordering a response by June 23 to allow the Court to consider the petition at its next scheduled conference (June 26) or any subsequently added conference before it recesses for the summer; and (iii) grant the petition and set a briefing schedule to allow oral argument as soon as possible (including in a potential September sitting).

Respectfully submitted,



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June 17, 2025

RULE 29.6 STATEMENT

Petitioners Learning Resources, Inc. and hand2mind, Inc. are private, family-owned corporations. Learning Resources, Inc. and hand2mind, Inc. have no parent corporation or publicly held corporation that owns 10% or more of either entity's stock.


CERTIFICATE OF SERVICE

Pursuant to Rules 29.3 and 29.5 of the Rules of this Court, I certify that all parties required to be served have been served. On June 17, 2025, I caused a copy of the foregoing Motion to Expedite Consideration of the Petition for a Writ of Certiorari Before Judgment to be served by overnight delivery on the below-named counsel for

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