

*In The Supreme Court of the
United States*

November Term, 2016

Pattel, Inc.,

Petitioner,

v.

Cammy Gardashyan,

Respondent.

ORDER

The petition for writ of certiorari is granted and limited to the following questions:

- 1. Should we adopt a nominative fair use test in a trademark infringement action under § 1114 of the Lanham Act when a defendant used the plaintiff's mark in reference to the plaintiff, and if so, should we adopt it as an affirmative defense that may be asserted by the defendant despite a finding of a likelihood of confusion or does it become a part of the likelihood of confusion analysis?**
- 2. Assuming a nominative fair use test is adopted, how should the test be articulated and applied to the present case?**