

Trump Asks Supreme Court To Decline Early Tariff Challenge

By Natalie Olivo

Law360 (July 18, 2025, 4:40 PM EDT) -- President Donald Trump's administration urged the U.S. Supreme Court to reject a request from Illinois-based toy makers to hear their challenge against the White House's global tariffs, arguing the justices should not "leapfrog" parallel proceedings in circuit courts.

The high court should deny the companies' writ of certiorari petition while the D.C. Circuit is still weighing their case against the tariffs, the administration said in a brief filed Thursday. Granting certiorari before judgment would be "particularly unusual" here because the Federal Circuit is also considering the tariffs' legality in a separate case on an expedited timeline, according to the brief.

"This court should not leapfrog those fast-moving proceedings, especially not to grant a petition in a case in which the district court lacked jurisdiction," the administration said.

A D.C. federal court, which ruled for the toy makers, never had jurisdiction to hear the dispute in the first place, according to the administration, arguing that jurisdiction belongs exclusively with the U.S. Court of International Trade.

In the underlying ruling, the D.C. federal court in May sided with the toy makers — Learning Resources Inc. and Hand2Mind Inc. — in holding that the International Emergency Economic Powers Act does not empower the president to impose tariffs. The IEEPA, enacted in 1977, grants the president the power to regulate importation, but that does not encompass the power to tax, U.S. District Judge Rudolph Contreras said in ordering a preliminary injunction.

The D.C. Circuit in early June paused Judge Contreras' injunction while it considered the Trump administration's appeal, prompting the toy makers to ask the Supreme Court to fast-track review of their petition. The high court on June 20 declined the request to expedite the process.

Meanwhile, similar litigation played out in the Court of International Trade. In that case, the trade court sided with a New York-based wine importer and other small businesses in striking down the tariffs.

The Federal Circuit in late May reinstated the trade measures as it considered the White House's appeal.

Trump imposed the contested tariffs in an April executive order that invoked the IEEPA to address what the White House described as a national emergency posed by "large and persistent" trade deficits in goods.

As part of the executive order, Trump imposed a 10% universal baseline tariff and a series of higher "reciprocal" tariff rates on trading partners that were meant to account for half the rate of a jurisdiction's trade surplus with the U.S. Trump soon thereafter suspended the higher rates as countries sought to strike deals in exchange for avoiding the new tariffs.

The toy makers received support Thursday from a group of former government officials — including a retired federal appellate judge, a former U.S. attorney general and three former U.S. senators — who urged the high court to grant certiorari. In an amici curiae brief, the group contended that the U.S. Constitution is explicit in granting Congress, not the president, the power to impose tariffs and levy taxes.

The IEEPA also intentionally makes no mention of tariffs, according to the former officials, who said the statute's language about regulating the importation of foreign goods does not extend to imposing taxes.

They added, "Although Congress may use its plenary taxing power to achieve regulatory ends, the converse is not true: The power to regulate is not the power to tax."

Counsel for the former officials and a representative for the U.S. government declined to comment Friday.

Counsel for the toy companies did not respond to a request for comment on Friday.

Learning Resources Inc. and Hand2Mind Inc. are represented by James E. Tysse, Kristen E. Loveland, Matthew R. Nicely and Pratik A. Shah of Akin Gump Strauss Hauer & Feld LLP.

The government is represented by D. John Sauer of the Office of Solicitor General, and Brett A. Shumate, Michael S. Raab, Brad Hinshelwood, Daniel Winik and Sophia Shams of the U.S. Department of Justice.

The former officials are represented by Daniel W. Wolff of Crowell & Moring LLP.

The case is Learning Resources Inc. et al. v. Donald J. Trump et al., case number 24-1287, in the Supreme Court of the United States.

--Additional reporting by Kevin Pinner, Lauren Berg and Dylan Moroses. Editing by Robert Rudinger.