

No. 2026-104

**UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT**

IN RE: COMCAST CABLE COMMUNICATIONS, LLC d/b/a Xfinity; COMCAST CABLE
COMMUNICATIONS MANAGEMENT, LLC d/b/a/ Comcast Technology Solutions,
Petitioners.

On Petition for Writ of Mandamus to the United States District Court for the
Eastern District of Texas in Case No. 2:24-cv-00886-JRG-RSP,
Judge J. Rodney Gilstrap

REPLY IN SUPPORT OF PETITION FOR A WRIT OF MANDAMUS

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November 12, 2025

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CERTIFICATE OF INTEREST

Counsel for Petitioners Comcast Cable Communications, LLC d/b/a Xfinity and Comcast Cable Communications Management, LLC d/b/a/ Comcast Technology Solutions certifies the following:

1. Represented Entities. Fed. Cir. R. 47.4(a)(1). Provide the full names of all entities represented by undersigned counsel in this case.

Comcast Cable Communications, LLC d/b/a Xfinity and Comcast Cable Communications Management, LLC d/b/a/ Comcast Technology Solutions

2. Real Party in Interest. Fed. Cir. R. 47.4(a)(2). Provide the full names of all real parties in interest for the entities. Do not list the real parties if they are the same as the entities.

None.

3. Parent Corporations and Stockholders. Fed. Cir. R. 47.4(a)(3). Provide the full names of all parent corporations for the entities and all publicly held companies that own 10% or more stock in the entities.

Comcast Corporation

4. Legal Representatives. List all law firms, partners, and associates that (a) appeared for the entities in the originating court or agency or (b) are expected to appear in this court for the entities. Do not include those who have already entered an appearance in this court. Fed. Cir. R. 47.4(a)(4).

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5. Related Cases. Other than the originating case(s) for this case, are there related or prior cases that meet the criteria under Fed. Cir. R. 47.5(a)?

Yes (file separate notice; see below) No N/A (amicus/movant)

If yes, concurrently file a separate Notice of Related Case Information that complies with Fed. Cir. R. 47.5(b). Please do not duplicate information. This separate Notice must only be filed with the first Certificate of Interest or, subsequently, if information changes during the pendency of the appeal. Fed. Cir. R. 47.5(b).

Already filed.

6. Organizational Victims and Bankruptcy Cases. Provide any information required under Fed. R. App. P. 26.1(b) (organizational victims in criminal cases) and 26.1(c) (bankruptcy case debtors and trustees). Fed. Cir. R. 47.4(a)(6).

None.

Dated: November 12, 2025

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INTRODUCTION

Sandpiper CDN’s response provides no sound reason for denying mandamus. Comcast’s petition falls squarely within the line of cases granting mandamus to ensure proper judicial administration on recurring venue issues that have split the district courts. The district court’s “one step” rule contradicts the plain language of 28 U.S.C. § 1400(b), and no matter how hard Sandpiper CDN attempts to stretch “acts of infringement,” the term refers to the *infringing* acts defined in 35 U.S.C. § 271, not individual steps that *do not infringe*. Moreover, in *NTP Inc. v. Research In Motion, Ltd.*, 418 F.3d 1282 (Fed. Cir. 2005), which Sandpiper CDN does not address until page 30 of its response, this Court already decided that all steps of a claimed method must be performed in a jurisdiction for infringement to occur there. Sandpiper CDN’s misplaced policy concerns cannot alter the plain meaning of Section 1400(b), and its last-ditch attempt to rely on a forfeited argument about alleged sales or offers to sell provides no reason to ignore the urgent need to reverse the district court’s “one step” rule.

I. COMCAST’S PETITION FALLS SQUARELY WITHIN A LONG LINE OF CASES APPROPRIATELY GRANTING MANDAMUS TO RESOLVE FUNDAMENTAL VENUE QUESTIONS THAT HAVE SPLIT THE DISTRICT COURTS

Mandamus is warranted where, as here, the issue presented “is important to proper judicial administration, such as when an appellate court corrects a district court’s answers to basic, undecided legal questions concerning judicial

administration.” *In re Stingray IP Sols., LLC*, 56 F.4th 1379, 1382 (Fed. Cir. 2023) (cleaned up). Sandpiper CDN argues that *Stingray* does not “exempt Comcast from the Supreme Court’s mandamus precedent” and invokes *Cheney v. U.S. District Court*, 542 U.S. 367 (2004). Resp. 13-14. But *Stingray* explicitly grounded the “administration of justice” standard in multiple Supreme Court decisions and explained that when mandamus is appropriate to promote proper judicial administration, this Court “ha[s] not separately required petitioners to show satisfaction of *Cheney*’s three requirements.” 56 F.4th at 1382 (citing *La Buy v. Howes Leather Co.*, 352 U.S. 249, 259-260 (1957), and *Schlagenhauf v. Holder*, 379 U.S. 104, 110 (1964)). Far from avoiding Supreme Court precedent, Comcast is following it—and in doing so, following this Court’s precedential articulation of the applicable legal standard.

This Court has repeatedly granted mandamus in cases involving the interpretation of Section 1400(b) to ensure proper judicial administration. Pet. 22; *In re Micron Tech., Inc.*, 875 F.3d 1091, 1095 (Fed. Cir. 2017) (collecting cases); *see also* Chamber of Commerce Br. (“Chamber Br.”) 6-9. The Court granted relief in those cases even though it could have waited until appeals from final judgments, as Sandpiper CDN proposes (*see* Resp. 12, 17-18). That is because those cases presented basic issues of law that would inevitably be repeated. *See* Chamber Br. 6-9. The same is true here. The proper interpretation of Section 1400(b)’s “acts of

infringement” requirement has been repeatedly litigated, has already split the district courts, and is currently under dispute in yet more cases. *See* Pet. 26 (collecting cases). This situation will continue festering if this Court does not act promptly to resolve the “basic, undecided legal question[] concerning judicial administration” presented by Comcast’s petition. *Stingray*, 56 F.4th at 1382.

Sandpiper CDN tries to downplay the split here, arguing that prior cases cited “a significant number of district court decisions” with “conflicting views.” Resp. 14 (quoting *In re Volkswagen Grp. of Am., Inc.*, 28 F.4th 1203, 1207 (Fed. Cir. 2022)); *see also* Resp. 16. But Sandpiper CDN’s attempt to portray this case as being about “a single aberrant district court decision” on Comcast’s side, Resp. 16, understates the split and the importance of the issue to sound judicial administration. *Volkswagen* does not establish a minimum number of divergent decisions to trigger mandamus relief. What matters is how often the issue arises and how entrenched the split is. *In re BigCommerce, Inc.*, 890 F.3d 978, 981 (Fed. Cir. 2018) (granting mandamus on issue that “will inevitably be repeated” while citing only a few split decisions); *In re ZTE (USA) Inc.*, 890 F.3d 1008, 1011 (Fed. Cir. 2018) (granting mandamus to resolve Section 1400(b) questions because the “issues are likely to be repeated”).

Here, there is an undeniable split between Judge Jordan, on the one hand, and Judges Gilstrap and Albright on the other hand. Those three judges from the same

state sit in two of the busiest patent venues in the nation. *See* Pet. 24 n.9. Moreover, if Judge Jordan predictably adheres to his interpretation of Section 1400(b) in cases implicating the “one step” issue that have been stayed pending his adjudication of motions to dismiss, there will be at least three cases properly rejecting the “one step” rule and at least eight cases improperly taking the “one step” approach—on top of the other cases in which the “one step” rule was implicated but ultimately not dispositive. Pet. 24 n.8. One way or another, this Court will have to resolve the split, and the interests of sound judicial administration demand that it should be sooner.

Pointing to the district court decisions on its side of the split, Sandpiper CDN argues that mandamus is inappropriate “if a rational and substantial legal argument can be made in support of the rule in question.” Resp. 16 (quoting *In re Cordis Corp.*, 769 F.2d 733, 737 (Fed. Cir. 1985)). But as this Court’s many cases granting mandamus to resolve splits on venue issues demonstrate, disagreement in the district courts does not defeat a mandamus petition. In fact, it supports mandamus where, as here, the petition presents a question of general importance on which this Court can provide clear guidance. *E.g.*, *BigCommerce*, 890 F.3d at 981.

In any event, the district court cases adopting the erroneous “one step” rule largely did so with limited to no analysis. Far from showing deep support for the rule, those cases illustrate the danger of leaving it to spread unchecked. As for

SEVEN Networks, LLC v. Google LLC, 315 F. Supp. 3d 933 (E.D. Tex. 2018), Comcast’s petition explained at length how it misinterpreted *Blackbird Tech LLC v. Cloudflare, Inc.*, 2017 WL 4543783 (D. Del. Oct. 11, 2017). Pet. 16-17. Yet Sandpiper CDN continues citing *Blackbird* and *SEVEN Networks* without grappling with the flaws Comcast identified. Resp. 16. In contrast, the first case that carefully addressed the issue without rubberstamping *SEVEN Networks* correctly decided that Section 1400(b) requires **all** steps of an accused method to be performed in a judicial district for venue to be proper there. *AML IP, LLC v. Bath & Body Works Direct, Inc.*, 2024 WL 3825242, at *3 (E.D. Tex. Aug. 13, 2024).

Sandpiper CDN also gets nowhere string-citing inapposite decisions (Resp. 12-13) in which this Court denied venue-related mandamus petitions on case-specific grounds:

- *In re Monolithic Power Systems, Inc.*, 50 F.4th 157, 161 (Fed. Cir. 2022) (per curiam), potentially “present[ed] an idiosyncratic set of facts,” and the majority remarked that being “drawn into such fact-laden disputes ... would be inconsistent with the limited nature” of mandamus.
- *In re ZTE Corp.*, 2022 WL 1419605, at *2 (Fed. Cir. May 5, 2022), involved forfeited arguments for several Section 1404(a) factors and the district court’s “reasonable finding” on the proper application of the first-to-file rule.
- *In re Canon Inc.*, 2022 WL 1197336, at *1 (Fed. Cir. Apr. 22, 2022), involved undisputed judicial-economy findings that supported the district court’s Section 1404(a) determination. The companion decision involved an allegation that the court diluted the “exacting burden” to pierce the corporate veil with no

showing that it was a recurring problem. *In re Canon, Inc.*, 2022 WL 1197337, at *2 (Fed. Cir. Apr. 22, 2022).

- *In re Medtronic, Inc.*, 2021 WL 6112980, at *3 (Fed. Cir. Dec. 27, 2021) (per curiam), involved district court determinations that were “focused on various case-specific details.”
- *In re Hughes Network Systems, LLC*, 2017 WL 3167522, at *1 (Fed. Cir. July 24, 2017) (per curiam), did not analyze Section 1400, and instead rested its Section 1404 ruling largely on the defendant’s 16-month delay in moving to transfer.

Comcast’s basis for mandamus here is not fact-bound or tenuous. Rather, it presents a fundamental question of statutory interpretation on which the statute and precedent overwhelmingly support Comcast’s position.

II. SANDPIPER CDN’S RESPONSE REINFORCES THAT THE DISTRICT COURT’S ERRONEOUS RULING HAS NO BASIS IN THE LAW

A. Sandpiper CDN’s Statutory Interpretation Is Faulty

Sandpiper CDN’s interpretation of 28 U.S.C. § 1400(b), which distorts the statutory text in an attempt to make “acts of infringement” refer to acts that *do not infringe*, only serves to underscore the need for mandamus.

“Acts of infringement” is a term of art that refers to the acts defined as infringement in 35 U.S.C. § 271, such as making, using, selling, offering to sell, or importing. 60 Am. Jur. 2d Patents § 739 (“The acts of infringement referred to in the patent venue statute are those acts defined by the statute dealing with infringement.”); 5 Annotated Patent Digest § 36:153.80 (collecting cases); *see also* Chamber Br. 13. “Acts of infringement” is thus synonymous with “infringing

acts”—it refers to acts that *infringe*, not individual actions that fall short of infringement. *See* 29 Cong. Rec. 1902 (1897) (sponsor of Section 1400(b)’s predecessor explaining “where there is an established place of business and an *infringement* ... [j]urisdiction may be had there”).¹

This straightforward reading is supported by the safe-harbor provision in 35 U.S.C. § 271(e), which recites that “[i]t shall not be an *act of infringement* to *make, use, offer to sell, or sell* within the United States ... a patented invention ... solely for uses reasonably related to the development and submission of information under a Federal law” regulating medical treatments. This reflects the long-held understanding, dating back to the enactment of Section 1400(b)’s predecessor, that “acts of infringement” refers to complete acts such as making or using a patented invention. *See* 4 Robinson, *The Law of Patents for Useful Inventions* § 946 (1890) (“An act of infringement is committed by making, using, or selling the patented invention[.]”).

Sandpiper CDN attempts to support its strained interpretation by artificially splitting the term “acts of infringement,” arguing that the dictionary definition of “act” involves the “process of doing something,” and thus “acts of infringement” means “engaging in the process of” statutorily defined infringing activities. Resp.

¹ All emphases added unless otherwise indicated.

20-21 (emphasis omitted). But even if it were appropriate to split a term of art like “acts of infringement” (which it is not), the term “act” more naturally refers to “a thing done” rather than a mere step along the way. Act, *Webster’s New College Dictionary* 13 (2007); see also Act, *A Dictionary of Modern Legal Usage* 19 (2d ed. 1995) (“Generally, *act* denotes the thing done ... *action* suggests a process—the many discrete events that make up a bit of behavior—whereas *act* is unitary.”); *id.* (“An *act* is the single thing done, or what is done by a single effort ... the term act is more proper than action where it is so defined as to imply what is single and simple[.]” (quoting G. Crabb, *Crabb’s English Synonymes* 24 (1917))).

Comcast’s plain reading of Section 1400(b) does not violate “the surplusage canon,” as Sandpiper CDN alleges. Resp. 22 (emphasis omitted). In context, “acts” simply links the instances that are sufficient for venue purposes to the infringing acts identified in the Patent Act. It is Sandpiper CDN who ignores the full language of the statute by giving short shrift to the term “infringement”—twisting the phrase “acts of infringement” to the point that it no longer refers to infringing acts. Similarly, although Sandpiper CDN alleges that Comcast is rewriting the statute to require a “*complete* act of infringement” (Resp. 22 (emphasis modified)), it is Sandpiper CDN who seeks to rewrite the statute to cover *partial or inchoate* acts that require more to become “acts of infringement.” In Sandpiper CDN’s view, an

“act of kindness” could be as little as touching a door handle, when the true act of kindness would be opening the door for someone.

Sandpiper CDN also gets nowhere with its analogy to the “act of war” defense in the Antiterrorism Act (Resp. 21), which relies on Congress’s definition of an “act of war” as “any act occurring in the course of (A) declared war; (B) armed conflict ...; or (C) armed conflict between military forces of any origin,” 18 U.S.C. § 2331(4). If Sandpiper CDN were right that “act” means “in the process of,” then the statutory definition of “act of war” would start with the phrase “any [*in the process of*] occurring in the course of.” *See* 18 U.S.C. § 2331(4). That is nonsensical. Moreover, the statutory definition of “act of war” has nothing to say about patent law, where “act of infringement” is a term of art referring to the activities enumerated in Section 271. Similarly, Sandpiper CDN’s “acts of racketeering” argument backfires. When 18 U.S.C. § 1961(5) states that a “‘pattern of racketeering activity’ requires at least two acts of racketeering activity,” it clearly means “racketeering activity” as defined in 18 U.S.C. § 1961(1), not acts that fail to rise to the level of racketeering activity. The entire phrase “acts of infringement” likewise refers to the infringing acts defined by Section 271.

B. Sandpiper CDN Misinterprets This Court’s Decision In *NTP*

In addition to misinterpreting the statutory text, Sandpiper CDN misinterprets this Court’s precedent. *NTP*’s logic regarding whether an act of infringement occurs

within the United States should control the analogous question of whether an act of infringement occurs in a particular judicial district. Sandpiper CDN's observation (Resp. 31) that *NTP* did not directly address the exact issue here is unremarkable. Comcast seeks mandamus precisely because, in the absence of a direct ruling by this Court, many courts have strayed on a recurring legal question that should be straightforward under *NTP*.

Sandpiper CDN's attempts to distinguish *NTP* fail. *NTP*'s key analysis was based on case law regarding what is necessary for the infringement of method claims, not the presumption against extraterritoriality. See 418 F.3d at 1318 (citing *Roberts Dairy Co. v. United States*, 530 F.2d 1342, 1354 (Ct. Cl. 1976)). Nor is there any substance to Sandpiper CDN's hair-splitting distinction between *NTP*'s discussion of the word "within" from Section 271 and the word "in" from Section 1400(b). See Resp. 32-33. Both statutes contain requirements regarding *where* infringing acts take place, and the definition of "in" that Sandpiper CDN cites itself refers to "inclusion, location, or position *within* limits." Resp. 32 (quoting *Merriam-Webster*).²

² Sandpiper CDN's fanciful analogy about Medieval cats sets up a false comparison by adding "the walls" after "within" but not after "in." The proper comparison is a cat living "within the castle" and one living "in the castle," for which there is no difference.

C. This Court's ANDA Cases Do Not Help Sandpiper CDN

This Court's cases involving abbreviated new drug applications do not support Sandpiper CDN's interpretation of Section 1400(b). The relevant statutory provision instructs that "[i]t shall be an *act of infringement* to submit" an abbreviated new drug application ("ANDA"). 35 U.S.C. § 271(e)(2)(A). Applying Sandpiper CDN's interpretation of "acts of infringement" together with Section 271's ANDA provision would mean that it would be an "act of infringement" to take steps that, by themselves, fall short of "submit[ting] ... an application," such as editing an early draft or buying an envelope. *Id.* That is not the law.

Valeant Pharmaceuticals North America LLC v. Mylan Pharmaceuticals Inc., 978 F.3d 1374, 1377 (Fed Cir. 2020), does not bolster Sandpiper CDN's position. In *Valeant*, this Court explained that the "plain language" of Section 271 means that "the submission of the ANDA, and *only* the submission ... constitutes an act of infringement." 978 F.3d at 1381. Sandpiper CDN stresses (Resp. 24 & n.5) that the Court did not decide whether venue may be appropriate in the district where the ANDA was prepared even if it was submitted elsewhere, *see Valeant*, 978 F.3d at 1384 & n.8. But this Court cannot be faulted for deciding only the issue presented to it. *See id.* The crux of *Valeant*'s holding was that venue was *not* proper in districts where generic drugs might later be sold. *Id.* at 1380-1381.

Sandpiper CDN’s reliance on *Celgene Corp. v. Mylan Pharmaceuticals Inc.*, 17 F.4th 1111, 1121 (Fed. Cir. 2021), encounters similar problems. *See* Resp. 24-25. *Celgene* “reiterated that ‘venue in Hatch-Waxman cases must be predicated on past acts of infringement.’” 17 F.4th at 1120 (quoting *Valeant*, 978 F.3d at 1381). *Celgene* never held that steps falling short of ANDA submission are sufficient to establish venue. Rather, just as *Valeant* held that planned sales by generic drug companies were insufficient, *Celgene* held that a generic drug company’s transmission of a paragraph IV notice to a brand-name drug company is insufficient because it occurs separately from—and *after*—the ANDA submission. *Id.* at 1120-1122. Sandpiper CDN seizes on the phrase “part of the submission” in the Court’s explanation that “the relevant infringing acts must, at a minimum, fairly be part of the submission.” *Id.* at 1121 (emphasis omitted); *see* Resp. 24-26. But again, this Court was merely being cautious by deciding only the issue before it, as the phrase “at a minimum” notes. *Celgene*, 17 F.4th at 1121.

Together, *Valeant* and *Celgene* direct that, in Hatch-Waxman cases, the ANDA submission is the only “act of infringement” for venue purposes. That supports Comcast’s reading of Section 1400(b) that “acts of infringement” means the infringing conduct itself. *Supra* § II.A.

D. Sandpiper CDN’s Policy Concerns Are Unpersuasive

Sandpiper CDN does not dispute that when a plaintiff asserts only method claims, there is always at least one available venue—namely, where the defendant is incorporated, *see TC Heartland LLC v. Kraft Foods Grp. Brands LLC*, 581 U.S. 258, 261-262 (2017), or any federal district if the defendant is a foreign corporation, *see* 28 U.S.C. § 1391(c)(3). There is thus no “venue gap.” *Contra* Resp. 28 (quoting *In re HTC Corp.*, 889 F.3d 1349, 1355 (Fed. Cir. 2018)).

Sandpiper CDN responds that enforcing Section 1400(b) as written would “erase the second half of Section 1400(b) for a subset of cases.” Resp. 26-27. But Sandpiper does not cite any evidence that Congress wanted the second prong to provide additional venue options in all cases, and all indications are to the contrary. *See* 29 Cong. Rec. 1901 (1897) (Rep. Mitchell explaining rejection of amendment to replace “and” with “or” in the second half of the patent venue statute); *Stonite Prods. Co. v. Melvin Lloyd Co.*, 315 U.S. 561, 566 (1942) (“the Act of 1897 was a restrictive measure, limiting a prior, broader venue”). In fact, there are indisputably cases in which the second prong adds no options beyond the first, such as when a defendant has its only regular and established place of business in the same state where it is incorporated. *See* Pet. 19-20.

Sandpiper CDN’s hypotheticals do not move the needle in its favor. *See* Resp. 27. If a company performs one step in District X and a second step in District Y,

any resulting infringement cannot be attributed entirely to District X or District Y under this Court’s precedent holding that infringing a method claim requires “*all* steps of the claimed method ... be performed.” *Mirror Worlds, LLC v. Apple Inc.*, 692 F.3d 1351, 1358 (Fed. Cir. 2012). But that does not exempt the company from suit where it resides. As for multiple defendants incorporated in different states (Resp. 27-28), it is hardly surprising that a plaintiff may be required to file separate suits against distinct corporate entities, and Sandpiper CDN ignores that Congress has already provided a process for consolidating multidistrict litigation. *See* 28 U.S.C. § 1407; *In re Rembrandt Techs. LP Pat. Litig.*, 899 F.3d 1254, 1263 (Fed. Cir. 2018).

Sandpiper CDN’s arguments about transfers for convenience are also misplaced. *See* Resp. 28-29. There is no requirement for a party challenging improper venue under Section 1400(b) to pursue a separate convenience-based challenge under 28 U.S.C. § 1404(a). The two statutes serve different purposes. Section 1400(b) circumscribes the set of possible venues in a patent case. And when there are multiple options, Section 1404(a) permits the courts to channel the dispute to the venue that makes resolution more convenient for the parties and their witnesses.

Finally, concerns about the expenditure of resources (Resp. 29-30) favor Comcast. What Sandpiper CDN’s preferred case actually says is that “clear rules”

help to “minimize expenditure of resources on threshold, non-merit issues.” *In re Google LLC*, 949 F.3d 1338, 1347 (Fed. Cir. 2020). That is precisely why Comcast is arguing that the Court should adhere to its bright-line rule that the infringement of a method claim requires performance of all steps of the claimed method. Some amount of jurisdictional discovery, where appropriate, is a small price to pay compared with the waste of conducting complete proceedings in an improper venue. In any event, concerns about resources cannot supersede a plain reading of the venue statute. If Sandpiper CDN is dissatisfied with Section 1400(b) as written, “[t]he remedy ... lies with Congress.” *Id.* (alteration in *Google*).

III. SANDPIPER CDN CANNOT RELY ON A FORFEITED ARGUMENT ABOUT ALLEGED SALES OR OFFERS TO SELL

It is no coincidence that the record contains no analysis from the district court on whether Comcast allegedly sold or offered to sell the claimed methods within the Eastern District of Texas. Appx1-7. Sandpiper CDN forfeited that argument by failing to raise it below in a timely fashion. Crucially, Sandpiper CDN never made the sell/offer argument in its response to Comcast’s venue motion. *See* Appx724-745. The first time that Sandpiper CDN mentioned it was in a sur-reply, as Sandpiper CDN admits. Resp. 9 (citing Appx785). That is too little, too late. *See Novosteel SA v. United States*, 284 F.3d 1261, 1273-1274 (Fed. Cir. 2002) (“[R]eply briefs reply to arguments made in the response brief—they do not provide the ... party with a new opportunity to present yet another issue for the court’s

consideration.” (emphasis omitted)). Sandpiper CDN then relegated the argument to a footnote in its response to Comcast’s objections to the magistrate judge’s report and recommendation. Appx820 n.5.

Even if the issue were preserved, Sandpiper CDN does not cite a single decision of this Court supporting the proposition that a method claim can be sold or offered for sale. This Court reserved judgment on the question, while observing that “the legislative history of section 271(a) indicates Congress’s understanding that method claims could only be directly infringed by use.” *NTP*, 418 F.3d at 1320-1321; *see also Ricoh Co. v. Quanta Comput. Inc.*, 550 F.3d 1325, 1334 (Fed. Cir. 2008). If anything, Sandpiper CDN’s attempt to inject another recurring, fundamental legal issue into the proceeding would provide further reason to grant mandamus. Sandpiper CDN’s forfeiture, however, eliminates the need to reach the sale/offer issue.

The Court should not defer resolution of the question of statutory interpretation squarely before it based on a forfeited argument that played no part in the district court’s decision. The district court’s “one step” venue rule conflicts with the statute and precedent. Comcast should not be forced to litigate in a venue where no “acts of infringement” have occurred, and this Court should not let the division in the district courts on such a fundamental question continue.

CONCLUSION

The Court should grant the petition, vacate the district court's order, and direct the court to dismiss or transfer the case.

Respectfully submitted,

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November 12, 2025

CERTIFICATE OF SERVICE

I hereby certify that, on this 12th day of November, 2025, I filed the foregoing with the Clerk of the United States Court of Appeals for the Federal Circuit via the CM/ECF system, which will send notice of such filing to all registered CM/ECF users.

I also certify that on the 12th day of November, 2025, I caused a copy of the foregoing to be served via overnight courier to the U.S. District Judge:

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