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
No. 2:24-cv-00886-JRG-RSP
Judge J. Rodney Gilstrap

OPPOSITION TO PETITION FOR PANEL REHEARING AND REHEARING EN BANC

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CERTIFICATE OF INTEREST

Counsel for Sandpiper CDN, LLC, 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.

   Sandpiper CDN, LLC

2. **Real Parties 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.

   N/A

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.

   Theseus IP, LLC; Sandpiper Consulting, LLC

4. **Legal Representatives.** Fed. Cir. R. 47(a)(4). 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.

   Shook, Hardy & Bacon L.L.P.: Andrew M. Long; Cesar A. Udave I; Maxwell C. McGraw; Robert H. Reckers

   Gilliam & Smith, LLP: Melissa Richards Smith

5. **Related Cases.** Fed. Cir. R. 47(a)(5). 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)?

   No

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

   None.

CONFIDENTIAL MATERIAL OMITTED

There is no confidential information in this opposition.

Dated: January 23, 2026

/s/ Richard L. Rainey

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TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES

Page(s)

Cases

TABLE OF AUTHORITIES
(Continued)

Page(s)

TABLE OF AUTHORITIES
(Continued)

Page(s)

Statutes

Federal Rules

STATEMENT OF RELATED CASES

Sandpiper CDN, LLC, is not aware of any other appeal in or from this civil action. Nor is Sandpiper aware of any case pending in this or any other court or agency that will directly affect or be directly affected by the Court's decision in this matter.

INTRODUCTION AND SUMMARY

The Court correctly rejected Comcast's request for the extraordinary relief of mandamus because, at a minimum, Comcast "failed to demonstrate that review of its challenge in a post-judgment appeal would be 'inadequate' under the circumstances of this case." Add.2. Despite the case-specific nature of the panel's finding, Comcast doubles down on its request to jump the line, asking this Court to grant it *another* form of extraordinary relief—rehearing *en banc*—which would only further consume this Court's resources on a question the Court may review at the proper time.

A petition for rehearing *en banc* is a tool used sparingly, only when it is "necessary to secure or maintain uniformity of the court's decisions"; there is a conflict with Supreme Court precedent or another circuit; or "the proceeding involves one or more questions of exceptional importance." Fed. R. App. P. 40(b)(2). And, as this Court has explained, a "petition for rehearing *en banc* is rarely appropriate if the appeal was the subject of a nonprecedential opinion." Fed. Cir. Practice Notes to Rule 40. Not surprisingly, Comcast's petition wholly fails to show that the panel's nonprecedential decision conflicts with any decision of this Court

or that it involves a question of exceptional importance. The rehearing petition is, at most, an attempt to argue the panel got it wrong, which it did not, and which is not the standard for rehearing regardless.

Rather than allege a genuine conflict with this Court's precedent, Comcast simply reiterates the arguments it made to the panel about why, in its view, a final judgment appeal is inadequate. The panel correctly rejected those arguments, explaining that there is "no such urgency" here. For that reason, panel rehearing and rehearing *en banc* are unwarranted. The panel's conclusion demonstrates no lack of uniformity, let alone a conflict important enough to deserve the full Court's attention. The outcomes in the cases Comcast invokes were based on different facts and turned on the context-specific and extraordinary nature of mandamus relief. Comcast's theory for mandamus proceeds from the premise that there is a divide among *district courts* that requires this Court's review. This is merely an argument that the panel erred in denying mandamus; that argument wholly fails to support rehearing *en banc*, which requires a conflict with binding circuit authority. Moreover, the problem for Comcast is that it can find only *one case* in nearly a decade on its side of this dispute. *See* Rhg.Pet.12, 18 n.1. Comcast may

not like the prevailing rule, but, as the panel recognized, Comcast must await final judgement to appeal.

Comcast is no more successful in claiming this case raises a question of "exceptional importance." In so arguing, Comcast moves the goal posts, asking this Court to focus on the *merits* of the dispute. Rhg.Pet.1. But the panel decided only that mandamus was inappropriate because Comcast can appeal after final judgment. The "harm" Comcast suffers from that conclusion is having to defend itself against an infringement suit from Sandpiper in a district that is not its top choice. The panel did not resolve any exceptionally important issue in its nonprecedential order rejecting Comcast's attempt to use ordinary litigation burdens to justify upending the final judgment rule. Instead, the panel made a fact-bound judgment that, under the circumstances here, an appeal after final judgment would not be inadequate, which turns not on the merits of this dispute but rather Comcast's failure to meet the mandamus standard.

Even accepting Comcast's improper focus on the merits, its petition does nothing more than repeat the same arguments that have failed to convince all but one judge in one case. And for the reasons Sandpiper has

explained, Comcast's theory finds no support in the statute's text, its context, or common sense.

For each of these reasons, this Court should deny Comcast's rehearing petition.

BACKGROUND

A. Sandpiper Sues Comcast for Patent Infringement in the Eastern District of Texas.

Sandpiper holds patents related to content delivery networks ("CDNs"), Appx21 ¶¶ 34–35, networks of servers and data-delivery infrastructure intended to speed up delivery of online content, Appx12–15 ¶¶ 13–25. As demand for CDNs has skyrocketed, companies like Comcast have entered the CDN market. Appx15 ¶¶ 25–26. In 2010, Comcast created a CDN now known as "Apache Traffic Control," Appx17 ¶¶ 27–28, which Comcast uses "to consistently and reliably deliver content at scale" and "meet its enormous data streaming needs," *id.*

But Comcast's entire CDN "infrastructure … is built based on CDN technology" derived from Sandpiper's patents, Appx29–30 ¶ 61, "leveraging technology" that Sandpiper created, Appx15 ¶ 26.

In November 2024, Sandpiper sued Comcast Cable Communications, LLC; Comcast Cable Communications Management,

LLC; and Comcast Corporation ("Comcast") for patent infringement in the Eastern District of Texas. Appx8–84. Sandpiper asserted method claims under five patents: U.S. Patent Nos. 7,013,322; 8,478,903; 9,628,347; 9,660,876; 9,762,692. Appx8 ¶ 1; Appx30–83. The representative claimed method recites "obtain[ing] a request from a client for a resource" and "serving the resource to the client" via the claimed logic and infrastructure. Appx73 ¶ 107; Appx75 ¶ 109. Sandpiper alleges that Comcast "committed and continues to commit acts of infringement in this District by, among other things, leveraging the offices, facilities, and/or employees Comcast maintains in this District and the State of Texas to make, use, sell, and offer to sell the accused Comcast CDN functionalities." Appx10 ¶ 7.

B. The District Court Denies Comcast's Venue Motion.

Comcast filed a motion to dismiss or transfer the case for improper venue under 28 U.S.C. § 1406(a), arguing that, although it has "a regular and established place of business" within the district, there were no allegations that it had "committed acts of infringement" there, as required under Section 1400(b). Specifically, Comcast urged the district court to depart from its prior ruling in *SEVEN Networks, LLC v. Google*

LLC, 315 F. Supp. 3d 933 (E.D. Tex. 2018), and find that venue was improper because not all steps of infringement were performed in the district. Appx662–77.

The district court denied the motion. Appx1–2. The court adopted the recommendation of a magistrate judge, explaining that "because 'Comcast's CDN serves Comcast customers in the Eastern District of Texas, [meaning] the "delivering content" [step] … is necessarily performed in this District.'" Appx6. The court found that for each patent Sandpiper identifies "at least one step that it alleges is performed in this District and [thus] provides sufficient support for these allegations." *Id.* (citing Appx731–33).

C. This Court Denies Comcast's Mandamus Petition.

In October 2025, Comcast filed a mandamus petition in this Court. Dkt.2. Rather than show that it met the requirements for mandamus under *Cheney v. U.S. Dist. Ct. for D.C.*, 542 U.S. 367, 380–81 (2004), Comcast argued mandamus was warranted because "a fundamental legal question implicating judicial administration … has divided the district courts." Dkt.2, at 21. Despite asserting that "the district courts are irreconcilably divided," Comcast identified only a single outlier district

court decision in support of this so-called split. Dkt.2, at 23 (citing *AML IP, LLC v. Bath & Body Works Direct, Inc.*, 2024 WL 3825242, at *3 (E.D. Tex. Aug. 13, 2024)).

In opposing the petition, Sandpiper argued that (1) Comcast failed to meet the high bar for mandamus relief because it could appeal after final judgment and had identified only one outlier case, Dkt.20, at 12, and (2) Comcast did not establish a clear and indisputable right to the writ because its interpretation of Section 1400(b) conflicted with the statute's plain language; ignored precedents from this Court interpreting Section 1400(b); and would lead to absurd results for multi-step method claims, Dkt.20, at 19–29.

A panel of this Court denied Comcast's petition on December 9, 2025, in a nonprecedential decision. Add.1–3. It explained that "[a]t a minimum, Comcast has failed to show it has no other adequate means to challenge the district court's venue determination" because it could appeal following final judgment. Add.2 & n.1.

Comcast filed a combined petition for panel rehearing and rehearing *en banc*. This Court invited a response on January 9, 2026.

REASONS FOR DENYING REHEARING

"Petitions for rehearing *en banc* are an 'extraordinary procedure' that should be used only to bring the court's attention to an issue of 'exceptional public importance' or one that 'directly conflicts' with on-point" precedent. *Johnson v. Lumpkin,* 76 F.4th 1037, 1039 (5th Cir. 2023) (quoting 5th Cir. I.O.P.). Moreover, a "petition for rehearing *en banc* is rarely appropriate [for] a nonprecedential opinion," Fed. Cir. Practice Notes to Rule 40, and Comcast has not identified any case in which this Court has granted rehearing *en banc* to review an order granting or denying mandamus.

This Court should deny Comcast's rehearing petition. The panel's decision does not conflict with this Court's mandamus precedents. In arguing otherwise, Comcast relies on a single district court decision as a purported harbinger of future conflicting decisions. But *rehearing en banc* cannot be justified by purported conflict among *district* courts, which is, in any event, not genuinely present here. "[J]udicial administration" mandamus is appropriate only in "narrow circumstances" such as where a "significant number" of district courts "adopt conflicting views," *In re Volkswagen Grp. of Am., Inc.*, 28 F.4th

1203, 1207 (Fed. Cir. 2022), a state of affairs wholly absent here. And the cases Comcast identifies in support of its rehearing petition arose in different circumstances than those present here—they all involved multiple conflicting district court decisions, and most also concerned novel legal issues arising from *TC Heartland LLC v. Kraft Foods Grp. Brands LLC*, 581 U.S. 258 (2017).

Comcast is no more persuasive in urging that this case presents an issue of exceptional importance. To begin, the panel did not reach the merits of whether Section 1400(b) permits venue in a district where a single step of a claimed multi-step method infringement occurred because it concluded that Comcast failed to show that it was entitled to mandamus. Rhg.Pet.1. The focus of rehearing should therefore be whether *that* holding concerns an issue of exceptional importance. Add.2. It does not. Rather, the panel's nonprecedential order resolved a run-of-the-mill jurisdictional question.

Although this Court should decline to examine the merits of the Section 1400(b) dispute because they were not resolved by the panel, Comcast has not, in any event, identified any error in the district court's approach. Comcast's contrary interpretation conflicts with the plain text

of the statute and would improperly eliminate a path to venue for multi-step method claims.

I. The Panel's Nonprecedential Order Denying Mandamus Does Not Conflict with Any Decision of This Court and Is Not of Exceptional Importance.

A. The panel's decision does not conflict with this Court's mandamus precedent.

Mandamus is a "drastic and extraordinary remedy reserved for really extraordinary causes." *Cheney*, 542 U.S. at 380 (internal quotation marks omitted). Comcast's request for rehearing retreads its arguments that an exception to the typical mandamus standard should apply and urges, unpersuasively, that the panel's failure to grant mandamus on that basis demonstrates a conflict with decisions of this Court.

To begin, the panel recognized that under this Court's precedent "[a] post-judgment appeal may be inadequate when immediate appellate intervention is necessary to resolve 'a basic, unsettled, recurring legal issue over which there is considerable litigation producing disparate results, or similar [extraordinary] circumstances.'" Add.2 n.1 (quoting *In re Monolithic Power Sys., Inc.*, 50 F.4th 157, 158 (Fed. Cir. 2022) (per curiam)). Any suggestion that the panel overlooked (Rhg.Pet.2) this

Court's precedent regarding "judicial administration" mandamus is therefore entirely misplaced.

Nor does the panel's conclusion (Add.3 n.1) that there is "no such urgency" sufficient to prove inadequacy conflict with this Court's precedent. Comcast's unhappiness with the panel decision does not warrant the attention of the full Court. In an attempt to manufacture a conflict, Comcast invokes six cases from this Court. Rhg.Pet.1, 17.[1] But all the cases are distinguishable.

In four of Comcast's cases, *In re Micron Tech., Inc.*, 875 F.3d 1091 (Fed. Cir. 2017); *In re BigCommerce, Inc.*, 890 F.3d 978 (Fed. Cir. 2018); *In re Cray Inc.*, 871 F.3d 1355 (Fed. Cir. 2017); and *In re ZTE (USA) Inc.*, 890 F.3d 1008 (Fed. Cir. 2018), the Court granted mandamus to address various novel legal questions that arose rapidly after the Supreme Court's decision in *TC Heartland LLC*, which interpreted the meaning of "resides" in Section 1400(b). *See, e.g.*, *In re Micron Tech.*, 875 F.3d at 1094

[1] Although Comcast's subheading (Rhg.Pet.13) states that the panel failed to follow Supreme Court precedent, that section merely cites two Supreme Court mandamus decisions as the basis for a judicial administration mandamus standard, without developing an argument that there is any conflict between the panel's decision and the holdings in those cases.

(deciding whether *TC Heartland* represented a change-of-law relevant for waiver of venue defenses). The follow-on issues from *TC Heartland* had divided numerous district courts, many of which expressly "noted the uncertainty surrounding and the need for greater uniformity" on the novel legal questions. *In re Cray Inc.*, 871 F.3d at 1359; *see also In re BigCommerce*, 890 F.3d at 981 (noting legal issue was "undecided" and "unsettled" (citations omitted)); *In re Micron Tech.*, 875 F.3d at 1094 (citing "widespread disagreement over the change-of-law question relevant to waiver" precipitated by the *TC Heartland* decision).

Comcast's other two examples similarly fail to demonstrate that the panel decision conflicts with this Court's precedent. For example, central to the Court's analysis in *In re Volkswagen Grp. of Am., Inc.*, were the "*significant number of district court decisions* that adopt conflicting views on the basic legal issues presented in the case." 28 F.4th 1203, 1207 (Fed. Cir. 2022) (cleaned up) (emphasis added). There were "at least four disparate inter-district determinations on the specific issue presented," as well as at least one district court that had "stay[ed] another case until the Federal Circuit issues further guidance on these venue issues." *Id.* at 1207 n.2 (internal quotation marks omitted).

This Court's decision in *In re Google LLC*, 949 F.3d 1338 (Fed. Cir. 2020) ("*Google II*"), also turned on continued and deepening conflict. After earlier denying mandamus because of "the paucity of district court cases" on the matter, *In re Google LLC*, No. 2018-152, 2018 WL 5536478, at *3 (Fed. Cir. Oct. 29, 2018) (per curiam) ("*Google I*"), this Court changed course, observing that "there are now *a significant number* of district court decisions that adopt conflicting views on the basic legal issues presented in this case." *Google II*, 949 F.3d at 1342–43 (emphasis added).

This case, however, involves only a *single* case supporting Comcast's position. *See* Rhg.Pet.12. By contrast, multiple judges—both inside and outside the Eastern District of Texas—have rejected Comcast's position. *See* Dkt. 20 at 15–16 (collecting cases). A lone outlier district court decision in another case does not rise to "exceptional circumstances warranting immediate intervention to assure proper judicial administration," *Google I*, 2018 WL 5536478, at *2, as the panel here recognized, explaining that "no such urgency has been shown here," Add.3 n.1. Instead, "the paucity of district court cases" means mandamus is not warranted under this Court's precedent. *Google I*, 2018 WL 5536478, at *3.

Although Comcast observes that two judges handle a significant number of patent cases and venue motions, Rhg.Pet.17–19; 18 n.2, those judges *agree* on the interpretation of Section 1400(b), *see, e.g.*, *AML IP, LLC v. J.C. Penney Corp.,* 2022 WL 10757631, at *6 (W.D. Tex. Oct. 18, 2022) (Albright, J.), which only underscores why mandamus is unwarranted. Comcast has not shown any *conflict* that requires this Court's mandamus resolution.

Indeed, it is granting Comcast mandamus that would have created a conflict with this Court's mandamus cases. In *In re Canon Inc.* the Court denied the writ because the petitioner did "not point to disagreement among a significant number of district courts on this issue that might warrant this court's immediate review." 2022 WL 1197337, at *2 (Fed. Cir. Apr. 22, 2022). Comcast is moreover wrong to assert that this Court grants mandamus "routinely." Rhg.Pet.8. That would be in direct conflict with Supreme Court precedent, *see Cheney*, 542 U.S. at 380–81, and this Court has, on multiple occasions, denied mandamus petitions when asked to review venue questions. *See, e.g.*, *In re Monolithic Power Sys., Inc.*, 50 F.4th at 158; *In re ZTE Corp.*, No. 2022-122, 2022 WL 1419605, at *1 (Fed. Cir. May 5, 2022); *In re Medtronic,*

Inc., No. 2022-107, 2021 WL 6112980, at *1–2 (Fed. Cir. Dec. 27, 2021) (per curiam); *In re Hughes Network Sys., LLC*, No. 2017-130, 2017 WL 3167522, at *1 (Fed. Cir. July 24, 2017) (per curiam).

B. The panel's resolution of Comcast's mandamus petition does not involve a question of "exceptional importance."

Comcast also cannot show that rehearing *en banc* is warranted based on a question of "exceptional importance." Fed. R. App. P. 40. The panel decided in a nonprecedential order whether mandamus was warranted on the facts of this case; that context-specific inquiry, properly applying the Court's precedent, *see supra* Section I, is not a question of pressing concern. Comcast insists that its "theory for mandamus is not fact-bound" because it involves a "question of statutory interpretation." Rhg.Pet.15. But under that logic, every legal question would be entitled to mandamus review, which would flip the final judgement rule on its head and render mandamus relief anything but "extraordinary." *Cheney*, 542 U.S. at 380–81.

Nor is there anything remotely concerning about the denial of mandamus. Comcast has not identified any burdens beyond those litigants must ordinarily bear because of the interests protected by the

final judgment rule. The Supreme Court cautioned long ago that "the extraordinary writs cannot be used as substitutes for appeals, even though hardship may result from delay and perhaps unnecessary trial." *Bankers Life & Cas. Co. v. Holland*, 346 U.S. 379, 383 (1953) (citation omitted). Comcast's bare desire to defend itself in a more favored district cannot justify using mandamus as a substitute for a final judgment appeal.

II. The Merits of the Interpretation of the Venue Statute Provide No Basis upon Which to Grant Rehearing *En Banc*.

In certifying that this case is appropriate for rehearing *en banc*, Comcast asks this Court to focus on the merits of the venue dispute. *See* Rhg.Pet.1. But that is *not* the question decided by the panel, which held that Comcast failed to establish that it was entitled to mandamus and must await final judgment to appeal. Add.1–3. Given "the overwhelming workload of federal courts and the extraordinary circumstances necessary to warrant reconsideration en banc," *HM Holdings, Inc. v. Rankin*, 72 F.3d 562, 562 (7th Cir. 1995), this Court should not engage in *en banc* review of an issue not first passed upon by the panel and unnecessary to the result.

Even were this Court to consider the merits in deciding Comcast's rehearing request, Comcast has failed to demonstrate any error. The sole question relevant for venue is whether Comcast "committed acts of infringement" in the district. Like every other district court before it (minus one), the district court correctly found that a single step of a multi-step method claim in a district was sufficient. That interpretation conforms with the statutory text, follows this Court's precedents, and avoids the absurd results that would follow from Comcast's preferred statutory reading. Comcast offers nothing new in its rehearing petition to undermine the district court's conclusion.

First, the statute's plain language establishes that Comcast "committed acts of infringement" in the Eastern District of Texas. 28 U.S.C. § 1400(b). As explained in Sandpiper's opposition to the mandamus petition, that the statute uses "acts of infringement" rather than "infringement" is critical. "Acts of infringement" are the underlying conduct comprising infringement, which for a method claim may include multiple steps. *See also, e.g.*, 18 U.S.C. § 2331(4) (defining an "act of war" to mean "any act occurring in the course of … declared war …").

Comcast's theory elides this crucial distinction between infringement and acts of infringement. Comcast contends that "[t]o infringe a method claim, *all steps* of the claim must be performed." Rhg.Pet.10 (emphasis added) (quoting *Mirror Worlds, LLC v. Apple Inc.*, 692 F.3d 1351, 1358 (Fed. Cir. 2012)). But the question for venue is not whether a defendant has performed *all* acts of infringement in the district but whether the defendant has committed "acts of infringement" there. And "acts of infringement" are any acts that collectively make up the completed infringement.

Second, Comcast's interpretation conflicts with prior decisions of this Court interpreting Section 1400(b). This Court has previously held that an "act of infringement" may encompass activities that are only a "part of" the completed infringement. *See, e.g.*, *Valeant Pharms. North America LLC v. Mylan Pharmaceuticals Inc.*, 978 F.3d 1374 (Fed Cir. 2020); *Celgene Corp. v. Mylan Pharms. Inc.*, 17 F.4th 1111 (Fed. Cir. 2021). The logic of *Valeant* and *Celgene*—both recognizing that *parts* of the infringing activity can be sufficient for venue—compels rejection of Comcast's position.

This Court's decision in *NTP, Inc. v. Research in Motion, Ltd.*, 418 F.3d 1282 (Fed. Cir. 2005), is not to the contrary. In *NTP*, this Court concluded "that a process cannot be used 'within' the United States as required by section 271(a) unless each of the steps is performed within this country." *Id.* at 1318. That holding does not control here. *First,* the Court in *NTP* was interpreting materially different statutory language. Section 271 provides that patent liability attaches when someone "without authority makes, uses, offers to sell, or sells any patented invention, within the United States." 35 U.S.C. § 271(a). Section 271 is concerned with where a patented invention is *used*, *sold*, etc., and it makes sense therefore to limit liability to where all acts occur within the United States.[2] In contract, Section 1400(b) looks to whether "acts of infringement" occurred "in" a district, which, as explained, means that at least one part of the infringement must have occurred in the district. *Second, NTP* determined the extraterritorial reach of U.S. patent law, not domestic venue, and the two inquiries involve different

[2] And the *NTP* language selectively quoted by amicus (Amicus.Br.3) recites the uncontroversial proposition that "a patent for a method or process is not infringed unless all steps or stages of the claimed process are utilized." 418 F.3d at 1318.

considerations. *Cf. RJR Nabisco v. Eur. Cmty.*, 579 U.S. 325, 335 (2016) (presumption against extraterritoriality avoids "the international discord that can result when U.S. law is applied to conduct in foreign countries.").

Finally, Comcast's interpretation of Section 1400(b) would render the second half of that subsection superfluous for an entire class of multistep method claims. But, as this Court has explained, Section 1400(b) was intended to "allow[] broader venue than merely the place of a defendant's incorporation." *In re Cray Inc.*, 871 F.3d at 1361. Comcast's hypothetical of a company that is incorporated and has its singular established place of business in the same State misses the point. That company can be sued in only one district because both prongs of the statute happen to yield the same result. But Comcast's theory means instead that an entire provision of the venue statute will have no application for multi-step method claims where steps are performed in different districts. Comcast's interpretation both leads to absurd results for many multistep method claims and is inconsistent with the clear intent of Congress.

CONCLUSION

This Court should deny Comcast's combined petition for panel rehearing and rehearing *en banc*.

Dated: January 23, 2026

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

1. This brief complies with the type-volume limitation of Federal Rule of Appellate Procedure 40(d) and Federal Circuit Rule 40(e) because it contains 3,899 words, excluding the parts of the brief exempted by Federal Rule of Appellate Procedure 32(f) and Federal Circuit Rule 32(b)(2).

2. This brief complies with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5) and the type style requirements of Federal Rule of Appellate Procedure 32(a)(6) because it has been prepared in a proportionally spaced typeface using Microsoft Word in Century Schoolbook 14-point font.

Dated: January 23, 2026

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