

Filed: September 24, 2025

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GOOGLE LLC,
Petitioner,

v.

SANDPIPER CDN, LLC,
Patent Owner.

Case IPR2025-00860
Patent No. 10,924,573

**PETITIONER'S SUR-REPLY TO PATENT OWNER'S REPLY
BRIEF ON DISCRETIONARY DENIAL**

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This matter is the third related petition to present similar *Fintiv* issues to the Board. Following referral of the first two, Patent Owner now (for the first time) incorrectly claims Petitioner’s arguments are misleading. As explained in the Petition and this authorized sur-reply, the Board should refer the Petition.

I. *Fintiv* Factor 1 – The District Court’s Stay Favors Referral

Perhaps because two related petitions have been referred, *see* IPR2025-00806 (Paper 13, Sept. 9, 2025) and IPR2025-00826 (Paper 13, Aug. 26, 2025), Patent Owner doubles down on its incorrect assertion that the district court will only impose a full stay if *all* petitions are instituted. *See* Reply, 1. Not so. The district court stated it would *lift* the stay only if “the PTAB issues discretionary denials in *all* IPRs” EX-2006, 6 (emphasis added)). Should only some petitions be referred, the court has ordered briefing on whether the stay should continue. *Id.* Notably, the court acknowledged that any institution “could simplify the issues in this case,” indicating openness to a further stay even absent universal institution. EX-2006, 3.

II. *Fintiv* Factor 2 – Trial is Likely to be Delayed

The current trial date is likely to be delayed. Patent Owner argues that trial will occur months before the FWD. Reply, 2-3. But the court has already extended key deadlines, and it has said it will reassess the schedule following the discretionary denial decisions. EX-2006, 5-6 (requesting party input as to whether to maintain the pause if “the PTAB does not issue discretionary denials”). The petitions considered

by the Board to date have been referred, *see* IPR2025-00806 (Paper 13, Sept. 9, 2025) and IPR2025-00826 (Paper 13, Aug. 26, 2025), supporting an extended pause.

Patent Owner's reliance on *Amazon.com, Inc. v. Kaifi LLC*, IPR2025-00624, Paper 16 (P.T.A.B. July 29, 2025), a case which predates its August 11 discretionary denial brief but was uncited, is misplaced. There, the 45-day stay was based on a joint settlement notice. *See* EX-1035. The stay was expressly limited to 45 days. IPR2025-00624, Paper 16 at 2. Here, in contrast, the district court has imposed a stay to await further information from the Board and, as discussed above, has indicated it will consider a lengthier stay. EX-2006 at 5-6. *Kaifi* is thus inapposite.

III. *Fintiv* Factor 3 – Diligence and Investment in the Parallel Proceeding

Contrary to Patent Owner's contention, *see* Reply, 4, Petitioner moved diligently to file the Petition after it received Patent Owner's disclosures. The district court agreed. EX-2006, 4. The court likewise ruled, despite Patent Owner's assertion of significant investment, that the case remains in the "relatively early stages," with "more work ahead of the parties and the Court than behind." EX-2006 at 3.

IV. Conclusion

For the foregoing reasons, the *Fintiv* factors favor referral.

Dated: September 24, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing PETITIONER’S SUR-
REPLY TO PATENT OWNER’S REPLY BRIEF ON DISCRETIONARY
DENIAL was served electronically via email on September 24, 2025, in its entirety
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