

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MICROSOFT CORPORATION,
Petitioner

v.

SANDPIPER CDN, LLC,
Patent Owner

Case IPR2026-00174
U.S. Patent No. 9,762,692

**PATENT OWNER'S AUTHORIZED REPLY
TO PETITIONER'S OPPOSITION TO
PATENT OWNER'S BRIEF ON DISCRETIONARY DENIAL**

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TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	SANDPIPER’S DIRECT RELATIONSHIP TO THE TECHNOLOGY	1
III.	CONCLUSION.....	3

I. INTRODUCTION

Patent Owner Sandpiper CDN, LLC (“Sandpiper”) files this Reply pursuant to the Board’s email authorization on April 14, 2026. EX3103.

Microsoft is flatly wrong that Sandpiper “has no connection to the technology, apart from its recent purchase of patents.” Paper 8, 1. Sandpiper is co-owned by its Director of Software, Andrew Swart, who: (1) invented the underlying content delivery network (“CDN”) technology and developed his CDN solution (called “Footprint”); (2) co-founded the American company Sandpiper Networks; (3) expanded upon his invention at each of the U.S. companies that acquired the Footprint CDN software and associated patents; and (4) remains involved in the technology today at Sandpiper, which continues to commercialize the Footprint CDN software. *See generally*, <https://sandpiper-cdn.com>.

II. SANDPIPER’S DIRECT RELATIONSHIP TO THE TECHNOLOGY

Sandpiper’s co-founder, Mr. Andrew Swart, developed the pioneering CDN technology that led directly to the ’692 patent. As explained in Sandpiper’s Discretionary Denial Brief (Paper 7; “DD Br.”), the innovative CDN solution developed by Mr. Swart, and his co-inventors, was critical to alleviating data congestion issues that resulted from the increasing number of users seeking to access Internet content. DD Br., 2-3. As one of the leading original innovators of this trailblazing technology, Mr. Swart is a named inventor on many of

Sandpiper’s early patents. The ’692 patent is an improvement on the core CDN technology that Mr. Swart developed. Indeed, it expressly incorporates by reference U.S. Patent No. 6,185,598—a patent which lists Mr. Swart as an inventor—to support its description that the server selector 106 may include a “best” or “optimal” server as disclosed in the ’598 patent. EX1001, 5:5-12.

Not only was Mr. Swart a leading inventor of this trailblazing technology, he co-founded Sandpiper Networks, which received industry accolades and recognition for developing this innovative technology. EX2005, ¶¶23-26, n. 12. Although the startup company began in his garage, Mr. Swart and his team had grown Sandpiper Networks to nearly 100 U.S. employees by the time the company and its Footprint CDN were acquired by Digital Island in a \$1.1B deal. EX2005, ¶27 and n. 13. Sandpiper’s CDN (and associated patents) was subsequently acquired and operated by a few different companies, including Savvis Comms. and Level 3 Comms., before being acquired by Sandpiper. EX2005, ¶¶28-32.

Mr. Swart continued working on this CDN technology at each company, including patenting novel improvements that allowed Footprint to meet the needs of the many companies utilizing Sandpiper’s CDN (which included Microsoft — indeed, Microsoft bid against Level 3 to acquire Footprint and the related CDN patents from Savvis). *See* EX2005, ¶¶27-30, 47-49. For example, Mr. Swart is a named inventor on U.S. Patent Nos. 6,654,807 (filed by Digital Island); 8,478,903

(Savvis); and 8,468,245 (Level 3).

When Level 3 acquired the CDN software and patent assets by outbidding Microsoft, Mr. Swart was one of the founders and inventors onboarded by Level 3. *See* DD Br., 3. With Mr. Swart's ongoing involvement, Level 3 continued to further develop and file patent applications directed to the foundational CDN technology, and it became a leading U.S. CDN operator. EX2005, ¶¶30, 33-43.

Mr. Swart is the co-founder of Sandpiper, which acquired all of the CDN software and patents from Level 3. At Sandpiper, Mr. Swart leads the company's efforts to continue developing and commercializing the Footprint software. Indeed, Sandpiper has recently entered into a software evaluation agreement with a major U.S. company interested in using that software for its U.S. and worldwide content delivery needs. Notably, the Sandpiper patents currently at issue before the PTAB, including the '692 patent, were developed in connection with that software.

III. CONCLUSION

In short, Sandpiper is closely related and directly involved with the innovative CDN technology described in the '692 patent through its founding member Mr. Swart, and through its ownership and commercialization of the related software technology. Moreover, Sandpiper has strong settled expectations in the '692 patent. *See* DD Br., 8-9. For these reasons, and the other reasons discussed in Sandpiper's Discretionary Denial Brief, the Director should deny institution.

Respectfully submitted,

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CERTIFICATE OF SERVICE (37 C.F.R. § 42.6(e))

I certify that the above-captioned **PATENT OWNER'S AUTHORIZED
REPLY TO PETITIONER'S OPPOSITION TO PATENT OWNER'S BRIEF
ON DISCRETIONARY DENIAL** was served in their entirety on April 16,
2026, upon the following parties via electronic mail:

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