UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CROWDSTRIKE, INC.,
Petitioner
v.

GOSECURE, INC.,
Patent Owner

Case Nos. IPR2025-00067, IPR2025-00069
Patent No. 9,106,697

PETITIONER'S EXPLANATION OF MATERIAL DIFFERENCES BETWEEN PETITIONS AND RANKING

Petitioner submits this paper with its two parallel petitions (IPR2025-00067 and IPR2025-00069) (collectively, the "Petitions") challenging the validity of all claims (the "Challenged Claims") of U.S. Patent No. 9,106,697 ("the '697 Patent"). *Consolidated Trial Practice Guide* (Nov. 2019), 59-60.

I. Explanation of Material Differences Between the Petitions

There is one key material difference between the two Petitions. Each petition applies a distinct interpretation of the claim term "association." The Challenged Claims require identifying activities "wherein each of the activities includes an activity source, an activity target, and an ***association***[1] between the activity source and the activity target;" "storing in the memory the activity sources, activity targets, and associations;" and creating a "fingerprint indicative of the activity" "from the stored activities[.]" *'697 Patent*, Claims 1, 19-20. Based on the intrinsic record's ambiguity, there are two possible interpretations of "association." First, "association" could be interpreted to broadly mean the action[2] between an activity's source and target. *See, e.g.*, *'697 Patent*, 13:6-10 (referring to the third mandatory component of an activity as an "action . . . represent[ing] an event or operation occurring between the activity source [] and the activity target"). Second,

[1] All emphases added unless otherwise noted.

[2] An action can be any event or operation, including calling, executing, modifying, or accessing, such as system calls and library calls. *See '697 Patent*, 13:6-10.

"association" could be interpreted to more narrowly require characterizing whether the action, event, or operation between an activity's source and target is unauthorized. This is also referred to in the specification as an "association type[,]" which characterizes the relationship between a source and target as benign or malignant.[3] *'697 Patent*, 13:11-29.

In the parallel litigation, Patent Owner has not proposed a specific construction of "association." And, like the intrinsic record, its infringement allegations do not clearly reveal any particular meaning it ascribes to the term. In IPR2025-00069, Petitioner advances a set of proposed grounds that apply the broader interpretation of "association." In that petition, Petitioner includes a detailed claim construction analysis that identifies substantial intrinsic record support for the broader interpretation. In IPR2025-00067, Petitioner advances a set of proposed grounds that apply the narrower interpretation of "association" to account for the possibility that Patent Owner argues that the claimed "association" requires characterizing the relationship between a source and target as benign or malignant.

[3] The patent also teaches a third association type, in remission, which is an activity formerly, but no longer, characterized as malignant. No claims require this third type, so all proposed grounds focus on the benign and malignant types.

a. The petitions largely track one another, differing only as necessary to account for the distinct interpretations of "association"

Given the complexity of the subject matter and the number of claims challenged, Petitioner was unable to advance proposed grounds covering both possible constructions in a single petition. *Consolidated Trial Practice Guide* (Nov. 2019), 59 (noting that a large number of claims may justify multiple petitions). To preserve resources in the event that both petitions are instituted, Petitioner has endeavored to limit the changes between the two petitions to evidence and arguments related to the differing interpretations of "association."

Applying the broader interpretation of "association," IPR2025-00069 advances grounds based primarily on US Application 2008/0016570 to Capalik ("*Capalik*"). Assuming that the independent claims do not require characterizing each individual activity as benign or malignant, this petition establishes that *Capalik*—an earlier prior art disclosure by one of the '697 Patent's inventors—teaches the independent claims and many of the challenged dependent claims. This petition proposes combining *Capalik* with teachings from references Goel, Pike, King and Farley to capture secondary claimed concepts.

Applying the narrower interpretation of "association," IPR2025-00067 advances grounds based primarily on the combination of *Capalik* and "*Analyzing Intrusions Using Operating System Level Information Flow"* by King ("*King*"). This

petition establishes that it was known in systems similar to *Capalik* to characterize each individual activity as benign or malignant as part of an attack monitoring and signature generation method. The petition further establishes that a POSITA would have been motivated to modify *Capalik* pursuant to *King's* teachings to characterize each individual activity of an attack as benign or malignant. As with IPR2025-00069, IPR2025-00067 proposes combining *Capalik-King* with teachings from references Pike, King and Farley to capture secondary claimed concepts.

The following chart summarizes the proposed grounds in each petition, highlighting the efficiencies created by minimizing the overall reference count and limiting unique arguments to those necessary to account for the distinct "association" interpretations.

Petition	**Grounds/References**
IPR2025-00069	Ground 1 (§ 103): Claims 1-7, 13, 16, 19-20 (Capalik) Ground 2 (§ 103): Claims 1-7, 13, 15-16, 19-20 (Capalik/Goel) Ground 3 (§ 103): Claims 8-12, 15, 17, 21-23 (Capalik/King or Capalik/Goel/King) Ground 4 (§ 103): Claim 14 (Capalik/Pike or Capalik/Goel/Pike) Ground 5 (§ 103): Claim 18 (Capalik/Farley or Capalik/Goel/Farley)
IPR2025-00067	Ground 1 (§ 103): Claims 1-13, 15-17, 19-23 (Capalik/King) Ground 2 (§ 103): Claim 14 (Capalik/King/Pike) Ground 3 (§ 103): Claim 18 (Capalik/King/Farley)

II. Petitioner's Ranking

Given the substantial overlap between the petitions, instituting two petitions will not stress the Board's resources or unduly burden the Board or Patent Owner. Accordingly, institution of the parallel petitions is warranted.

To the extent the Board deems it necessary to institute only one petition, however, Petitioner places a higher priority on (i.e., ranks first) IPR2025-00069. Petitioner acknowledges that there are instances in which it would be appropriate to institute only one petition. As one example, because IPR2025-00067 is submitted to account for the possibility that Patent Owner advances a narrower interpretation of "association," it would be appropriate to institute only IPR2025-00069 if Patent Owner were to concede that the broader interpretation of "association" is correct. As another example, if the Board were to determine that the broader interpretation of "association" advanced in IPR2025-00069 is correct and does not intend to permit the parties to develop the record post-institution with respect to the narrower interpretation, instituting only IPR2025-00069 would be appropriate. However, if Patent Owner does not commit to one interpretation and the Board intends to let the parties dispute the proper interpretation post-institution, instituting both petitions is required, ensuring that Petitioner's grounds capture the ultimate interpretation the Board deems correct.

Dated: October 31, 2024

Respectfully submitted,

ERISE IP, P.A.

BY: *__/s/ Paul R. Hart___*

Paul R. Hart, Reg. No. 59,646
Paul.Hart@eriseip.com
Erise IP, P.A.
717 17th St., Suite 1400
Denver, Colorado 80202
P: (913) 777-5600
F: (913) 777-5601

COUNSEL FOR PETITIONER

CERTIFICATE OF SERVICE ON PATENT OWNER
UNDER 37 C.F.R. § 42.105(a)

Pursuant to 37 C.F.R. §§ 42.6(e) and 42.105(b), the undersigned certifies that on October 31, 2024, a complete and entire copy of this Petitioner's Ranking and Explanation of Material Differences Between Petitions was served via email and electronic file transfer to the following:

Morgan, Lewis & Bockius LLP (PA)
1400 Page Mill Road
Palo Alto, CA 94304-1124
United States

A complete and entire copy of this Petitioner's Ranking and Explanation of Material Differences Between Petitions was also emailed to counsel of record in the parallel litigation:

Giri Pathmanaban - giri.pathmanaban@lw.com
Maximilian A. Grant - max.grant@lw.com
Amit Makker - amit.makker@lw.com
Clement Naples - clement.naples@lw.com
Daniel Todd - daniel.todd@lw.com

Respectfully submitted,

By: /s/ Paul R. Hart
Paul R. Hart, Reg. No. 59,646

COUNSEL FOR PETITIONER