Filed on behalf of: GoSecure, Inc.

Entered: March 31, 2025

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CROWDSTRIKE, INC.,
Petitioner,

v.

GOSECURE, INC.,
Patent Owner.

Case IPR2025-00069
Patent 9,106,697

PATENT OWNER'S SURREPLY

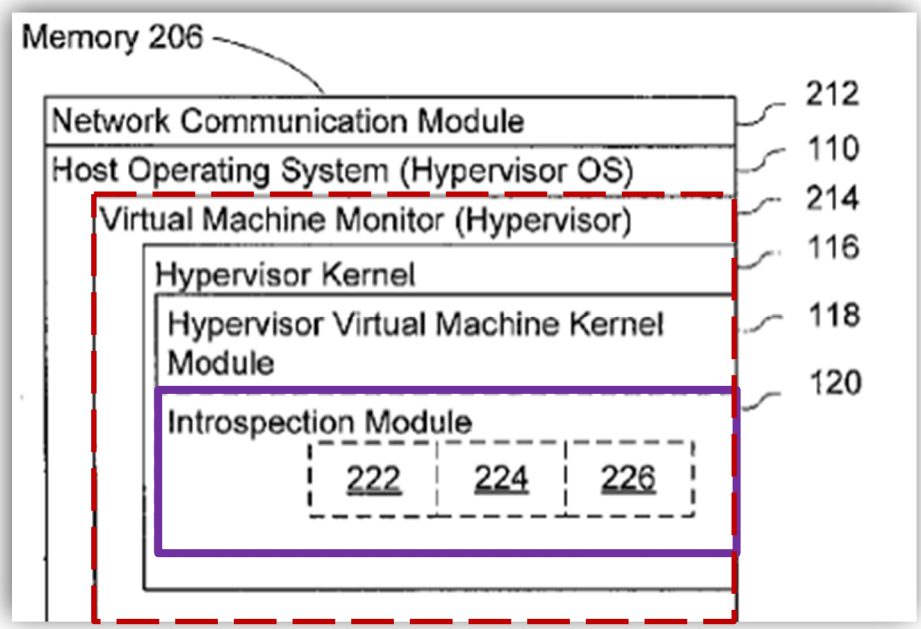
I. Petitioner's New Claim Construction Argument Fails

Claim 1 recites a "computer implemented method of identifying unauthorized activities" and the plain language and structure of the claim specify that the method is performed "at the virtual machine monitor." This is not an "implicit narrow construction," as Petitioner argues (Reply 1)—it is what the claim says. The POPR explained how the Petition fails to establish a reasonable likelihood of success with respect to claim 1 because the Petition points exclusively to activity in the prior art occurring ***entirely outside*** of its reference's virtual machine monitor (VMM) to allegedly meet certain limitations. POPR 22-25. Now, Petitioner seeks to revive its flawed Petition by advancing a strained construction that has no support in the intrinsic record. The Board should reject Petitioner's construction.

First, the plain and ordinary meaning of "at the virtual machine monitor" and its import is clear. That should be the end of the matter. *Toshiba Corp. v. Imation Corp.*, 681 F.3d 1358, 1369 (Fed. Cir. 2012) ("Absent disclaimer or lexicography, the plain meaning of the claim controls.").

Second, even if there were some uncertainty about the meaning of this phrase, Petitioner offers no reasoned basis for rewriting "at the virtual machine" to read "by the … decoy system." Reply 2. Petitioner's argument boils down to the acknowledgment that the '697 patent describes embodiments in which a signature is not generated "at the virtual machine." *Id*. But the '697 patent also describes

embodiments in which the converse is true. Only the latter is claimed. *Apple Inc. v. Andrea Elecs. Corp.*, 949 F.3d 697, 708 (Fed. Cir. 2020) (claim need not cover every embodiment when "the plain language of a limitation of the claim" does not cover every embodiment) (citation omitted). For example, with reference to Figure 2 (reproduced in part below), the specification explains that the **"introspection module" 120**—which is located ***within the virtual machine monitor 214***—"generates and retrieves forensic data (or fingerprint)." '697 patent at 6:65-7:2. More specifically, the "trace analyzer 226" within introspection module 120 "uses the raw attack information to generate a signature of the attack." *Id.* at 10:13-22.



'697 patent, Fig. 2 (excerpted, annotated)

As such, the entire premise of Petitioner's Reply—i.e., that "[n]owhere in the '697 Patent is there any teaching or suggestion that a VMM creates a

fingerprint/signature indicative of attack activity[]" (Reply 2)—is wrong. Likewise, Petitioner's argument that the patent "never suggests a signature generation engine contained within the VMM[]" (*id.* 3), is a red herring and incorrect. Petitioner fails to acknowledge its own argument that the patent "refers to a fingerprint as a signature" (Pet. 44 n.5) and ignores the clear intrinsic support for creating fingerprints ***at a virtual machine monitor*** as claimed. *See also, e.g.*, '697 patent, Fig. 6C step 636 ("Create … a fingerprint"), 14:39-41 ("programs … to perform the method [of Figure 6] are executed at the virtual machine monitor").

Third, Petitioner's refrain that the '697 patent and its reference share an inventor (Reply 1) is nothing more than another failed attempt to map the specification of the two documents to each other, which is legally insufficient: as Judge Giles Rich's famous saying goes, "the name of the game is ***the claim***." *In re Hiniker Co.*, 150 F.3d 1362, 1369 (Fed. Cir. 1998) (emphasis added) (citation omitted).

Finally, Petitioner's attempt to manufacture "direct[] conflict[]" between PO's district court complaint and its POPR is misguided. Reply 3. No conflict exists and, even if it did, the district court complaint is extrinsic evidence that cannot overcome the intrinsic record. The Board should reject Petitioner's strained construction and deny institution. POPR 20-27.

Respectfully submitted,

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), I certify that on this 31st day of March, 2025, a true and correct copy of the foregoing **Patent Owner's Surreply** was served by electronic mail on Petitioner's lead and backup counsel at the following email addresses:

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