

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CROWDSTRIKE, INC.,

Petitioner,

v.

GOSECURE, INC.,

Patent Owner.

IPR2025-00069

Patent 9,106,697 B2

Before NEIL T. POWELL, STACEY G. WHITE, and GARTH D. BAER,
Administrative Patent Judges.

BAER, Administrative Patent Judge.

DECISION

Denying Petitioner's Request for Rehearing
37 C.F.R. § 42.71

I. INTRODUCTION

Petitioner, CrowdStrike, Inc., filed a Request for Rehearing (Paper 16, “Req. Reh’g”) of our Institution Decision (Paper 14, “Decision” or “Dec.”) denying institution of claims 1–23 of U.S. Patent No. 9,106,697 B2 (Ex. 1001, “the ’697 patent”). For the reasons provided below, Patent Petitioner’s Request is *denied*.

II. ANALYSIS

A request for rehearing “must specifically identify all matters the party believes the Board misapprehended or overlooked, and the place where each matter was previously addressed.” 37 C.F.R. § 42.71(d). The party challenging a decision bears the burden of showing the decision should be modified. *Id.*

In our Decision, we concluded Petitioner had not shown a reasonable likelihood of prevailing in its unpatentability challenge. Dec. 8–10. Specifically, we explained that the claims’ plain language¹ requires creating a fingerprint *at* the virtual machine monitor (VMM), but in Petitioner’s asserted prior art, fingerprint generation occurs outside the components Petitioner identified as the claimed VMM. *Id.* at 8. We rejected Petitioner’s claim construction that “at the virtual machine monitor” “does not require ‘that each of the subsequently recited steps must be performed *by or in* the [virtual machine monitor],’ but instead only requires ‘that the fingerprint is generated by the same decoy system that contains the [virtual machine

¹ Claim 1 requires a decoy system that comprises a virtual machine and “at the virtual machine monitor: . . . creating, from the stored activities, a fingerprint indicative of the activity on the virtual machine.” Ex. 1001, 19:4–22.

monitor].” *Id.* at 9. In doing so, we noted “the claim’s plain language requires creating a fingerprint at the virtual machine monitor, not just at the decoy system, as Petitioner asserts.” *Id.* We further explained that “[a]lthough the claim’s plain language is decisive, we also disagree with Petitioner’s assertion that the ’697 patent’s specification describes only fingerprint creation outside the virtual machine monitor.” *Id.* at 9–10. As support, we cited Patent Owner’s Sur-reply (Paper 10), that cited two specification passages describing fingerprint creation in modules—introspection module 120 and trace analyzer 226—that Figure 2 depicts inside the VMM. Dec. 10 (citing Paper 10, 1–2); *see* Paper 10, 2 (citing Ex. 1001, Fig. 2, 6:65–7:2, 10:13–22).

Petitioner asserts we erred because “[our] interpretation misapprehends the teachings of the ’697 Patent.” Mot. 1. According to Petitioner, we should not have relied on Figure 2’s illustrations because the specification’s text describes introspection module 120 “*interposed between*” the VMM and the Virtual Machine. *Id.* at 8 (quoting Ex. 1001, 6:33–35). In addition, Petitioner notes that the specification states that Figure 2 is “*intended to be a functional description* of some embodiments *rather than a structural description of functional elements* in the embodiments.” *Id.* (quoting Ex. 1001, 8:4–7).

Petitioner’s arguments are not persuasive because even if Petitioner is correct that the specification does not teach an embodiment in which a fingerprint is generated by or in the VMM, that would not justify rewriting a claim limitation that requires creating a fingerprint “*at*” the VMM to permit creating a fingerprint *outside* the VMM. As we explained in our Decision, “the claim’s plain language is decisive” because “[w]hen, as here, a claim

term has ‘ordinary, simple English words whose meaning is clear and unquestionable,’ we may not redraft those words to mean something different.” Dec. 9 (quoting *Chef Am., Inc. v. Lamb-Weston, Inc.*, 358 F.3d 1371, 1373–75 (Fed. Cir. 2004)). Although Petitioner is correct that “claims ‘must be read in view of the specification, of which they are a part,’ Mot. 9 (quoting *Phillips v. AWH Corp.*, 415 F.3d 1303, 1315 (Fed. Cir. 2005)), Petitioner has not identified anything suggesting that the patentee acted as his own lexicographer by defining “at the virtual machine monitor” to “encompass[] method steps that are not performed within or by the VMM,” as Petitioner’s construction requires. See Mot. 12. There is also no indication the patentees’ use of “at the VMM” was a draftsman’s mistake. In short, Petitioner cites no authority that allows us to redraft clear, unquestionable claim language in such circumstances to mean something plainly inconsistent with that language based on a specification’s disclosure that does not align with what the claims recite. To the contrary, “[n]othing in any precedent permits judicial redrafting of claims.” *Becton Dickinson & Co. v. C.R. Bard Inc.*, 922 F.2d 792, 799 n. 6, 17 (Fed. Cir. 1990); see also *Chef America*, 358 F.3d at 1374.

CONCLUSION

Petitioner has not persuaded us that we misapprehended or overlooked any matter. Thus, Petitioner has not demonstrated we should modify our Decision denying institution.

III. ORDER

Accordingly, it is:

ORDERED that Petitioner’s Request for Rehearing is *denied*.

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PETITIONER:

Paul R. Hart
Adam P. Seitz
ERISE IP, P.A.
Paul.Hart@eriseip.com
Adam.Seitz@eriseip.com
PTAB@eriseip.com

PATENT OWNER:

Srinivas Giriraji Pathmanaban
Raghav Bajaj
Daniel S. Todd
Steven W. Peters
LATHAM & WATKINS LLP
giri.pathmanaban@lw.com
raghav.bajaj@lw.com
daniel.todd@lw.com
steven.peters@lw.com