

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CROWDSTRIKE, INC.,
Petitioner
v.

GOSECURE, INC.,
Patent Owner

Case No. IPR2025-00070
Patent No. 9,954,872

**RESPONSE TO PATENT OWNER'S REQUEST FOR
REHEARING BY THE DIRECTOR**

Petitioner submitted two parallel petitions—IPR2025-00068 (“IPR68”) and IPR2025-00070 (“IPR70”)—each challenging all claims of the ’872 Patent. Each petition relied principally on *Capalik*, which is a 102(b) patent application publication by one of the ’872 Patent’s inventors. And each petition advanced a distinct interpretation for the claim term “association.” Paper 3, 3. IPR70 advanced a broader interpretation of “association,” well supported by the intrinsic record, and demonstrated that *Capalik* alone renders obvious many Challenged Claims. Recognizing that Patent Owner (“PO”) might take advantage of ambiguity in the ’872 Patent to distinguish *Capalik*, IPR68 accommodated a narrower interpretation of “association” and combined *Capalik* with *King*. Because it was based on a correct construction, with ample intrinsic support, Petitioner prioritized its broader challenge in IPR70. Paper 3, 5. The Ranking Paper explained that IPR68 should be instituted only if the meaning of “association” remained up for debate. *Id.*

PO refused to take a position on the meaning of “association” and urged the Board to deny Petitioner’s first choice, IPR70, without explaining why. The Board rejected PO’s gamesmanship and found the “totality of circumstances here supports Petitioner’s position that two petitions are warranted.” IPR68, Paper 13, 11. The Board concluded that “Petitioner has challenged a large number of claims directed to complex subject matter” and faulted PO’s refusal to engage with the meaning of

“association,” noting “the task of challenging those claims is complicated by the potential for Patent Owner to argue for a narrow construction of ‘association’[.]” *Id.*

PO asks the Director to reverse the Board’s well-reasoned and logical approach based on stark mischaracterizations of the record and precedent. First, PO argues the Board erred by instituting two proceedings based on the false premise that the Consolidated Trial Practice Guide (“CTPG”) identifies two “exclusive” scenarios for multiple petitions. Paper 19, 6-10. No such exclusivity exists. The Board instituted based on the totality of circumstances, consistent with precedent. Second, PO insists that Petitioner improperly shifted the burden to PO by refusing to ascribe meaning to “association.” *Id.* at 10-11. But IPR70 dedicated pages to showing that “the intrinsic record supports interpreting ‘association’” broadly, and IPR68 clarified that it should be instituted only to account for the possibility that PO might advocate an improperly narrow interpretation. Finally, PO erroneously contends that the Board construed “computer system” as a “network.” *Id.* at 12-15. Rather, the Board explained how a “computer system” is not limited to an individual endpoint device.

I. PARALLEL PETITIONS ARE WARRANTED

The Board has previously rejected the argument that the CTPG provides exclusive justifications for parallel petitions, framing them instead as non-exhaustive “examples.” *Apple Inc. v. Masimo Corp.*, IPR2024-00244, Paper 11, 19 (PTAB Jul.

9, 2024); *Solaredge Techs. Ltd. v. SMA Solar Tech. AG*, IPR2019-01224, Paper 10, 9–14 (PTAB Jan. 23, 2020) (instituting second petition even though circumstances did not fall within the two examples in the CTPG). Indeed, the Board has recognized that resolving distinct claim constructions—as here—can justify multiple petitions. *See Wirtgen Am., Inc. v. Caterpillar Inc.*, IPR2022-01395, Paper 9, 46 (PTAB Mar. 10, 2023) (approving parallel petitions to address “ambiguity” as to whether the “second actuator must be a rotary actuator”); *Comcast Cable Comm.’s, LLC v. Veveo, Inc.*, IPR2019-00290, Paper 15, 15 (PTAB Jul. 5, 2019) (“[w]e are persuaded that...[in part] claim construction arguments resulting in different manner of application of the prior art” warrant instituting second petition).

The Board’s decision based on the totality of circumstances is entirely consistent with precedent. The Board correctly credited the number of claims challenged (21), the complexity of the cybersecurity subject matter, and the need to resolve competing constructions. IPR68, Paper 13, 11. Ignoring the Board’s holistic analysis, PO improperly attacks each rationale independently. Paper 19, 6-10. It wrongly suggests 21 challenged claims is too few to merit multiple petitions. *Apple Inc. v. Masimo Corp.*, IPR2024-00244, Paper 11 at 16-18 (instituting parallel petitions challenging 25 and 23 claims). It also wrongly asserts that the overlap in prior art weighs against instituting multiple petitions; rather, Petitioner explained that it intentionally limited differences between the petitions to those necessary to

address “the differing interpretations of ‘association’” to “preserve resources in the event that both petitions are instituted.” Paper 3, 3. This rationale has been cited *in support of* parallel petitions. IPR2024-00244, Paper 11 at 18 (finding overlapping art “mitigate[es] the burden” associated with multiple petitions). The Board’s holistic approach was consistent with precedent and should not be disturbed.

II. ONLY PETITIONER ASCRIBED MEANING TO “ASSOCIATION”

PO incorrectly argues that Petitioner refused to construe “association,” improperly “flipping the burden of persuasion” and “absolv[ing] itself from any responsibility of taking a position on its meaning.” Paper 19, 10-11. To the contrary, IPR70 dedicated multiple pages to establishing that the intrinsic record supports its broader interpretation. IPR2025-00070, Paper 1 at 5-8 (“the intrinsic record supports interpreting ‘association’” broadly). And IPR68 expressly noted that it was being filed only to account for “the possibility that [PO] interprets [association] narrowly.” Paper 1, 6. Petitioner filed parallel petitions, stipulating that the second petition was unnecessary if PO acknowledged the broader interpretation of “association.” Paper 3, 5. PO, however, refused to engage, leaving its position unstated. Accordingly, the Board instituting multiple petitions did not result from Petitioner refusing to ascribe meaning to the claims, as PO argues, but instead to PO’s refusal to address “association” that necessitated multiple proceedings against the ’872 Patent.

III. “COMPUTER SYSTEMS” WAS PROPERLY CONSTRUED

The claims recite (1) a “first computer system” that generates activity-identifying information and (2) transmits the information to “one or more [other] computer systems.” In support, the patent teaches a decoy computer system that transmits identifying information to a protected computer system, which includes an IDS/IPS and protected network devices. Paper 9, 1; Ex. 1001, Fig. 1. PO concedes the patent describes transmitting information to (1) an IDS/IPS and/or (2) a network device, but PO asserts that the claims require (2) but exclude (1). Paper 7, 20-27. The Board correctly held that the limitation “encompasses transmitting the information to a group of components that includes components subject to future attacks, such as a protected network” and that PO’s arguments and evidence “do not support” limiting the term “computer system” to endpoint devices. Paper 15, 13-17.

PO argues the Board failed to distinguish between “computer system” and “network,” arguing that a “computer system” cannot include a “network” because the claims recite both. Paper 19, 12-15. PO’s theory directly conflicts with Fig. 1, which depicts a first computer system (“decoy computer network”) and second computer system (“protected computer network”), with both “networks” connected to a “communications network.” Ex. 1001, Fig. 1. The Board’s analysis is entirely consistent with Fig. 1’s arrangement and with the claim language.

Respectfully submitted,

Dated: May 23, 2025

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COUNSEL FOR PETITIONER

**CERTIFICATE OF SERVICE ON PATENT OWNER
UNDER 37 C.F.R. § 42.105**

Pursuant to 37 C.F.R. §§ 42.6(e) and 42.105, the undersigned certifies that on May 23, 2025, a true and correct copy of the foregoing Response to Patent Owner's Request for Rehearing by the Director was served electronically on counsel for Patent Owner at the following address:

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