

Filed on behalf of: GoSecure, Inc.

Entered: October 9, 2025

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CROWDSTRIKE, INC.,
Petitioner,

v.

GOSECURE, INC.,
Patent Owner.

Case IPR2025-00070
Patent 9,954,872

**PATENT OWNER'S REPLY IN SUPPORT OF ITS
AUTHORIZED MOTION FOR ADDITIONAL DISCOVERY**

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GoSecure's discovery requests are narrowly tailored to the issues of objective indicia of non-obviousness, which *must* be considered. GoSecure's Motion (Paper 40) demonstrated overwhelming circumstantial evidence of copying by CrowdStrike ("CS") based on Mr. Alperovitch's unfettered access to GoSecure's confidential information. Shortly thereafter, CS was co-founded by Mr. Alperovitch as CTO, and a year later released a product that closely tracks the '872 patent.

Yet CS asks the Board to decide its obviousness challenge without considering information in CS's sole possession. CS's opposition is based on attorney argument, untethered to any binding authority. Indeed, if CS had its way, no patent owner would ever obtain discovery related to copying short of already possessing the evidence.

Justice demands discovery on CS's copying, praise, and commercial success.

I. GoSecure cannot generate equivalent information.

CS does not dispute that it possesses the requested discovery and that GoSecure cannot generate equivalent information. In fact, CS goes further, asserting that GoSecure *cannot* argue objective indicia without CS's technical documents. Opp. 5, 13. This factor, along with the strong evidence of copying presented in the Motion, strongly favor discovery in the interests of justice.

II. The requested discovery is highly likely to be useful.

GoSecure presented damning indirect evidence of copying with its Motion.

See Mot. at 2-7. CS does not dispute that its co-founder and CTO had access to GoSecure's confidential technical information as a member of GoSecure's Board of Directors at the time he was leading the development of CS's technology. CS does not dispute that Mr. Gould (himself a former GoSecure engineer) had access to GoSecure's confidential information and was also involved in creating CS's first product. Nor does CS dispute any particular mapping of its early product to claim 1 of the '872 patent, demonstrating substantial similarity.

Yet CS asserts that (1) GoSecure has nothing more than speculation and (2) even if granted, the discovery would not be useful. CS is wrong on both points.

First, CS's copying is well beyond speculative. The Federal Circuit has held that "access and similarity to a patented product," and "access to published articles about a patented method are relevant to the analysis of objective indicia and copying." *Liqwd, Inc. v. L'Oréal USA, Inc.*, 941 F.3d 1137-38 (Fed. Cir. 2019). GoSecure has made this showing as discussed above. The evidence provided goes well beyond a mere suspicion of copying, and discovery of what direct evidence of copying is in the interests of justice.

Failing to dispute access and similarity, CS deflects, asserting that Mr. Alperovitch's access to the specification of the '872 patent is mitigated by his access to the *Capalik* reference. But the Motion cited specific evidence mapping CS's early product to specific limitations of claim 1, which CS has not asserted is

anticipated by *Capalik*. This undisputed mapping provides more than mere speculation that CS copied the '872 patent, not *Capalik*.

CS's assertion that nexus cannot be shown with "marketing materials" is unsupported. Opp. 12-13. In *Atlas*, the Board found that qualitative language such as "improved reliability" was insufficient to suggest a nexus. *Atlas Copco Tools LLC v. Wildcat Licensing WI LLC*, IPR2020-00891, Paper 37 at 9-10 (Mar. 18, 2021). Here, however, GoSecure maps technical descriptions of CS's early product to specific limitations. *E.g.* Mot. 5 ("Falcon Platform also 'has a situational model that keeps track of all the relationships and contacts between all these different processes in a graph database.'"). That is sufficient to obtain discovery.

Second, CS further asserts that the requested documents would not be useful because (1) the use of a GoSecure patent as prior art precludes objective indicia; (2) only CS's source code could show nexus; and (3) GoSecure did not and cannot request source code. CS is wrong on each point.

First, nothing about CS's use of *Capalik* in this proceeding precludes objective indicia. *WBIP, LLC v. Kohler Co.*, 829 F.3d 1317, 1328 (Fed. Cir. 2016) (objective indicia evidence "must be considered in *every* case."). CS does not assert that *Capalik* anticipates any claim of the '872 patent. Additionally, CS's obviousness arguments are based on overbroad interpretations of the claims that have yet to be resolved in this proceeding. Denying discovery based on a

presupposed final decision would violate GoSecure's due process rights, PTAB regulations, and Federal Circuit law.

Second, CS provides no evidence and no authority holding that source code is required to show nexus. CS asks the Board to take its attorneys' say-so that its technical documents sufficient to show the architecture of its product cannot show nexus to copying. Notably, CS did not need source code for its Petition.

In fact, CS contradicts its Petition. CS now asserts that the '872 claims require "specific data structures" that can only be shown with source code, but it made the opposite argument in its Petition: "the claims do not recite any specific structure of the stored data, generally recited as 'data structure.'" Pet. 29. CS cannot interpret the claims broadly for invalidity but narrowly for nexus.

Third, to the extent that source code is needed to show the architecture of CS's product, it is covered by Request #3. CS's implication that it will not produce documents sufficient to show the architecture of its platform further indicates its refusal to participate in discovery.

III. GoSecure is not using the PTAB to obtain discovery for parallel cases.

GoSecure seeks reasonable discovery for objective indicia, which is always relevant to the question of obviousness which is at issue in this proceeding. *WBIP*, 829 F.3d at 1328. CS asserts that GoSecure seeks discovery in the PTAB to use in its trade secret case. Opp. 8-9. Not so. GoSecure has already filed its trade secret

complaint in Texas, where that case is moving forward. CS will inevitably produce documents in that case, and GoSecure has no use for the requested PTAB discovery in that litigation. CS's revisionist account of the California case is unavailing. CS unilaterally refused to participate in discovery, and that court unfortunately would not hear GoSecure's motion to compel for nearly a year. That has no impact on GoSecure's ability to obtain relevant discovery at the PTAB. The non-precedential *33Across* case is inapposite because copying was not alleged in that case, whereas here GoSecure seeks discovery of technical documentation of Petitioner's product from 2012-2014 specifically related to alleged copying. *33Across, Inc. v. Leftsnrights, Inc.*, IPR2018-01480, Paper 24 at 9 (May 7, 2019).

IV. The discovery requests are clear and understandable.

GoSecure's requests are narrowly tailored to specific dates, products, and custodians. Although CS complains that some requests relate to Falcon Host and others relate to the Falcon Platform, CS demonstrates that it fully understands both terms. Opp. 13-14. And although CS feigns an inability to understand what is meant by a "customer survey" or "sales data," CS uses them itself. *See, e.g.*, Ex. 2029 at 1 ("Sales Data, Forecasting, and Analytics team"); Ex. 2030 at 5 ("Falcon Go Customer Survey").

V. Conclusion

For the above reasons, the Board should grant GoSecure's Motion.

Respectfully submitted,

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), I certify that on this 9th day of October, 2025, a true and correct copy of the foregoing **Patent Owner's Reply in Support of Its Authorized Motion for Additional Discovery** was served by electronic mail on Petitioner's lead and backup counsel at the following email addresses:

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