

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CROWDSTRIKE, INC.,
Petitioner

v.

SKYSONG INNOVATIONS, LLC,
Patent Owner

Inter Partes Review Case No. IPR2025-01398
U.S. Patent No. 11,275,900

**PETITIONER'S OPPOSITION TO PATENT OWNER'S
REQUEST FOR DISCRETIONARY DENIAL**

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I. INTRODUCTION

Patent Owner's ("PO") motion for discretionary denial turns prominently on two arguments. First, PO insists the Petition presents references that are cumulative of those the Office has already considered. But PO entirely fails to wrestle with the claim amendments made during prosecution that led to a notice of allowance—the very limitations that were missing from the prior art of record. In response to the single office action during prosecution, the claims were amended to require (1) the prediction list includes a prediction probability value for each tag and (2) add all parent tags associated with a tag of the plurality of tags to the prediction list based on a comparison between the prediction probability value for the tag and a first predetermined threshold value. EX1002, 284. PO does not dispute that these key concepts led to the notice of allowance, distinguishing the art of record. Ground 1 relies on *Pendar* for these key concepts. PO does not dispute that *Pendar* was not before the Examiner during prosecution, and PO does not attempt to show that any reference before the Examiner during prosecution taught these key concepts. Accordingly, PO falls far short of demonstrating that the Proposed Grounds rely on substantially the same prior art previously considered by the Office.

Second, PO insists that it has settled expectations resulting from an alleged meeting “more than six years ago” during which an inventor claims to have offered to license the '900 Patent. PO argues that settled expectations are supported by

Petitioner's actions following the meeting because it failed to license the patent or challenge its validity. Importantly, PO puts forth no evidence to substantiate this alleged offer to license a then-pending patent application. Its inventor declarant contends that he discussed "his inventions," but critically avoids stating that he informed the former CrowdStrike employees of the '900 Patent or its then-pending application. The slides he contends were presented during this meeting do not mention the '900 Patent's then-pending application. Accordingly, there is no factual basis on which to conclude that CrowdStrike knew of, or should have known of, the '900 Patent, which did not issue until three years after the alleged meeting. Accordingly, contrary to PO's settled expectations arguments, there was no patent to license and no claims to challenge. When CrowdStrike did learn of the '900 Patent, upon PO filing suit, it promptly filed its petition seven months after service. This record falls far short of supporting discretionary denial.

II. INSTITUTING CROWDSTRIKE'S PETITION IS AN APPROPRIATE USE OF BOARD RESOURCES

A. The IPR Art Was Not Previously Considered and Provides the Precise Teachings Missing from the Art of Record

PO's asserts that "[t]he prior art references asserted in the Petition are cumulative to those already considered by the USPTO during prosecution." Paper 7 at 16; *id.* at 1 (arguing that the cumulative nature of the prior art is the first allegedly "strong cause for discretionary denial"). But PO makes no meaningful attempt to

demonstrate that the Petition's prior art is cumulative of the art considered during prosecution. Instead, PO merely identifies high-level characteristics the IPR references allegedly share with specific references cited during prosecution:

Deliu and *Pendar* teach concepts substantially similar to the art evaluated during prosecution, such as *Dalins* (categorization of dark web content for law enforcement), *Dumais* (hierarchical classification of web content), and *Otsuka* (data cleansing for language classification in texts).

Id. at 16. There is no elaboration or more meaningful discussion. This single sentence is the entirety of PO's support for concluding that Part 1 of the *Advanced Bionics* framework is satisfied. *Id.* at 16-17 (arguing this analysis supports concluding "the same or substantially the same prior art was before the Office"). This record falls far short of satisfying Part 1 of the *Advanced Bionics* framework.

The claims were amended during prosecution to distinguish the art of record, the Examiner allowed the claims based on those amendments, and the IPR art provides precisely those teachings the Examiner found lacking in the prior art of record. Responsive to the only Office Action, Applicant amended the claims in two key ways. First, the Applicant added limitations requiring the prediction list to "include[] a prediction probability value for each tag[.]" EX1002, 287. Second, the Applicant amended the claims to require "adding all parent tags associated with a tag of the plurality of tags to the prediction list based on a comparison between the prediction probability value for the tag and a first predetermined threshold value."

Id. The applicant pointed to these new limitations, and specifically the claim element “add all parent tags associated with a tag of the plurality of tags to the prediction list” as expressly distinguishing the art of record, supporting patentability. *Id.* at 290-293. The Examiner agreed, noting that none of the three references cited in the Office Action satisfied the newly amended claims. *Id.* at 300-301.

The Petition relies on *Pendar* for the “prediction probability value” limitation and the “add all parent tags” limitation. Starting with the prediction probability value, the Petition cites *Pendar* at 14:37-67 for its teaching the “method of scoring may include summing each of the zero or more weights associated with positive queries” and comparing them to a threshold such that “for each score meeting the threshold score, [*Pendar*] assign[s] one or more labels associated with the score to the document.” Paper 1, 26-27; *see also*, EX1003, ¶¶125-126. Turning to the “add all parent tags” limitation, the Petition explains that “*Pendar* further teaches an additional label assignment technique where ‘dominant categories’ are assigned for each assigned label (i.e., *add all parent tags*).” Paper 1, 29 (citing *Pendar*, 15:46-16:3) The Petition explains an example of *Pendar*’s process, where “in an instance in which a label ‘lobster’ is determined, the label ‘lobster’ may be assigned, a dominant label ‘seafood’ [i.e., *parent tags*] may be assigned[.]” Paper 1, 29-30 (citing *Pendar*, 15:66-16:3); *see also*, EX1003, ¶¶136-138. Accordingly, *Pendar* provides the very teachings missing from the art of record. Thus, these grounds are

not cumulative of the art previously considered and the Board need not reach Part 2 of the *Advanced Bionics* framework. IPR2019-01469, Paper 6 at 10.¹

B. PO has not Developed Settled Expectations in the '900 Patent

PO “has not developed strong settled expectations” that the '900 Patent would not be challenged because the '900 Patent has “not been in force for a significant period of time[.]” *Microsoft Corp. v. Edge Networking Sys., LLC*, IPR2025-00617, Paper 12 at 2 (PTAB July 31, 2025). The '900 Patent issued less than 4 years ago: March 15, 2022. The Director has repeatedly found that Patent Owners do not have any settled expectations in such recently issued patents. *See, e.g., Klein Tools, Inc. v. Milwaukee Elec. Tool Corp.*, IPR2025-01018, Paper 14 at 2 (Director Oct. 10, 2025) (no settled expectations for challenged patent that issued in 2024); *Straumann USA, LLC v. Smart Denture Conversions, LLC*, IPR2025-00956, Paper 11 at 2 (Director Sept. 19, 2025) (no settled expectations for challenged patent that reissued in 2024). Likewise, the Director has repeatedly found early challenges like CrowdStrike’s “weigh against discretionary denial.” *See, e.g., MIM Software Inc. v.*

¹ PO’s argument that “[t]he Petition does not address [§325(d)], nor does it allege any error in the Examiner’s analysis” (Paper 7 at 17) ignores the Board’s explicit guidance that “[t]he petition should not address discretionary issues.” *See* April 25, 2025 FAQs for Interim Processes for PTAB Workload Management, FAQ 25.

Progenics Pharms., Inc., IPR2025-00630, Paper 13 at 2 (PTAB July 24, 2025)

(emphasizing that “early challenges favor robust, predictable patent rights and weigh against discretionary denial” and denying requests for discretionary denial of IPRs against patents issued between 2020 and 2024); *Microsoft v. Edge*, Paper 12 at 2.

While PO admits the '900 Patent has been in force for less than four years, PO nonetheless argues it has settled expectations in the '900 Patent's validity because it “is part of a mature cybersecurity portfolio...dating back to 2014.” Paper 7 at 13. Critically, this alleged “portfolio” consists of legally unrelated patents, which PO seeks to treat collectively by characterizing them as “cybersecurity innovations[.]” Paper 7 at 13. This attempted bundling falls flat. PO's own descriptions of the Asserted Patents emphasize their complex and disparate subject matter. EX2001, 7 ('385 Patent covers “security game frame-work...that models an attacker based on exploit market data”), 8 ('721 Patent covers “accessing different kinds of content with different browser instances”), 9 ('900 Patent covers “assigning one or more labels or tags related to various discussion forum topics”), 10 ('831 Patent covers “reducing the amount of total computation in [convolutional neural networks]”), 11 ('897 Patent covers “assessing the likelihood of exploitation of software vulnerabilities”). Contradicting PO's arguments based on a manufactured throughline for these unrelated patents, their disparate coverage weighs against discretionary denial. As the Director has held, asserting a “large number and vast

scope of the patents...weighs against discretionary denial[.]” *Tesla, Inc. v. Intellectual Ventures II LLC*, IPR2025-00217 Paper 9 at 3 (PTAB June 13, 2025) (refusing discretionary denial because district court proceedings “involve[d] eleven patents spanning nine different families that involve a diverse range of subject matter.”). Here too, “the Board is better suited to review” the five distinct patents “involving diverse subject matter.” *Id.*

Even if the Director were to accept PO’s proposed bundling, time does not favor settled expectations. The earliest provisional application for an Asserted Patent was *filed* in 2013, and no patent issued until June 4, 2019. EX2001 at 7. The Director has found that settled expectations have not vested in such nascent patent families. *See, e.g., TankLogix, LLC v. SitePro, Inc.*, IPR2025-00647, Paper 10 at 2–3 (PTAB July 31, 2025) (patents issued between 2019 and 2023 had “not been in force for a significant amount of time” so PO had “not developed strong settled expectations”).

In PO’s last attempt to leverage the improperly bundled patents, it contends that a history of the patents issuing over the last six years has “encourag[ed] Skysong and ASU to continue investing in commercialization without the specter of invalidity threats.” Paper 7 at 14. But Skysong was not even assigned the ’900 Patent until January 29, 2025—just *two days* before PO sued both CrowdStrike and Fortinet. EX1032. And PO presents no substantive evidence that it, or its predecessor, ASU,

has “invest[ed] in commercialization” of the ’900 Patent’s claimed invention. Indeed, Skysong’s website states it focuses on *licensing*, not commercialization.²

PO’s allegation that a third party “was formed to commercialize technologies from” the ’900 Patent falls flat. EX2002, ¶12. Notably missing from any of these assertions is how the product, PR1ORITY, implements any claims from the ’900 Patent. Paper 7 at 14. Instead, named inventor Shakarian—an interested employee of ASU, which owns SkySong—baldly asserts that the ’900 Patent was implemented with “inventions claimed in U.S. Patent Nos. 10,599,897 and 10,313,385” in a product referred to as PR1ORITY. EX2002 at ¶12. Inventor Shakarian also contends, without analysis, that “[t]he commercial success of PR1ORITY . . . is directly tied to the patented features of the ’900 Patent.” *Id.* at ¶15. He does not provide any evidence of this alleged nexus. Nor does he wrestle with the alleged contributions of the other patents that are also alleged to have been commercialized in PR1ORITY. As the Board and other courts routinely find, such bald assertions of nexus and commercial success fall far short of supporting nonobviousness. *See Fox Factory, Inc. v. SRAM, LLC*, 944 F.3d 1366, 1373 (Fed. Cir. 2019) (“In order to accord substantial weight to secondary considerations in an obviousness analysis, the evidence of secondary considerations must have a nexus to the claims, i.e., there must be a legally and factually sufficient connection between the evidence and the

² See <https://skysonginnovations.com/industry/>.

patented invention.”) (internal quotations removed); *Auto. Techs. Int’l, Inc. v. Delphi Corp.*, 776 F. Supp. 2d 469, 484 (E.D. Mich. 2011) (“Plaintiff’s declaration, by an expert who is also Plaintiff’s executive, contains merely a statement asserting the existence of a nexus between the claims and the success. Such a conclusory statement from an interested party is entitled to little weight.”); *GraftTech Int’l Holdings, Inc. v. Laird Techs. Inc.*, 652 Fed. Appx 973, 979 (Fed. Cir. 2016) (relying on the same evidence in each IPR “undermines [] commercial success arguments because . . . the patents-in-suit are directed to different inventions”). PO does not establish, or even assert, a nexus to the claims of the ’900 Patent. Accordingly, PO does not establish commercialization of any of the Asserted Patents. Failing to commercialize “weighs against [a] Patent Owner’s claim of strong settled expectations.” *Shenzen Tuozhu Technology Co., LTD, v. Stratasy, Inc.*, IPR2025-00438, Paper 10 at 3 (PTAB July 17, 2025).

PO’s final settled expectation argument also fails. PO points to an alleged conversation in 2019 between a named inventor and then-employees of CrowdStrike, insisting this conversation established “actual notice” of “ASU’s provisional patents.” Paper 7 at 14-15. As an initial matter, there is no evidence that any CrowdStrike representatives gained knowledge of this provisional application. Inventor Shakarian refers to “slide materials that [he] *typically*” used (EX2002, ¶9), but he does not contend that copies of these slides were provided to the alleged

attendees. Notably, the “typical” slides that Shakarian points to in this proceeding (EX2002-B at 1-6) appear to cobble together the distinct variations of the allegedly “typical” slides identified in prior proceedings in which discretionary briefing has been filed. *Compare*, EX2002-B at 1-6, *with* EX1033 at Appx B, 1-3 (Dr. Shakarian’s first declaration from IPR2025-01170, addressing legally unrelated U.S. Patent No. 11,892,897) *and* EX1034 at Appx B, 1-3 (Dr. Shakarian’s declaration from IPR2025-01397, addressing legally unrelated U.S. Patent No. 10,313,385). Even accepting this combination of allegedly “typical” presentations, the ’900 Patent’s provisional patent application (62/668,878) is not included. EX2002-B at 1-6. Similarly missing is any discussion of tagging—the main thrust of the ’900 Patent’s claims. Instead, the slides generically recite “highlights” of what it admits is “[c]urrently in use by intelligence community partners and multiple threat intelligence organizations.” *Id.* Generic recitation of admittedly known cybersecurity concepts is not “actual notice” of a pending patent application.

Turning to the substance of PO’s reliance, it argues that CrowdStrike’s failure to “pursue licensing” or to promptly challenge the patent’s validity support PO’s settled expectations. Fatal to PO’s argument, there was nothing to license and no claimed invention to question at the time of this alleged meeting. Even assuming there was actual notice of a patent application in 2019, the application was not public. Accordingly, CrowdStrike could not have ascertained what, if any, claim

scope was being pursued at the time. Importantly, the '900 Patent did not issue for another *three years*, during which the claim scope was significantly altered. EX1002 at 284-287. Courts routinely find pre-issuance communications insufficient to establish knowledge of a later-issued patent. *See BillJCo, LLC v. Apple Inc.*, 583 F. Supp. 3d 769, 776 (W.D. Tex. 2022) (according no weight to allegation that June 2019 letter provided notice of patent that issued in November 2019).

Put simply, there are no settled expectations of validity because the '900 Patent's claim scope was finalized just over 3 years before the Petition was filed.

III. PATENT OWNER'S REMAINING DISCRETIONARY DENIAL ARGUMENTS ARE MERITLESS

A. Judge Gilliland's Prior Stay Decisions Confirm a Stay is Likely

CrowdStrike intends to move for a stay if its IPR proceedings are instituted. PO argues that it is unlikely the Court would grant a stay. Paper 7 at 8. In support, PO cites just two cases in the Western District: *Quantum Imaging* and *Yondr*. *Yondr* was decided by a different judge in the district. PO fails to wrestle with this disparity and provides the Director no reason to assume all judges in the district will rule similarly. While the other decision, *Quantum Imaging*, was decided by the correct judge (Gilliland), the factual record there stands in stark contrast to this case. As PO admits, judges in the Western District of Texas ("WDTX") have denied motions for stay "when claim construction / discovery are complete and trial is approaching." *Id.* That was the case in *Quantum Imaging*. EX1035, *Quantum Imaging*, Dkt. 357, 3–4

(observing that a *Markman* hearing had concluded, fact and expert discovery were closed, dispositive and *Daubert* briefing was complete, and the parties were finalizing their Joint Pretrial Order and Submissions). The circumstances here are unlike *Quantum Imaging*. Even if the litigation is not transferred and the *Markman* hearing is not delayed due to transfer, when this proceeding is instituted and CrowdStrike moves to stay, the *Markman* hearing will have just been conducted and fact discovery will begin just over one week prior. EX2004 at 2.

This case is more analogous to the *VOIP-PAL.com* decision in which Judge Gilliland **granted** a stay. In *VOIP-PAL.com, Inc. v. Samsung Elecs. Co., Ltd.*, No. 6:21-cv-01246 (W.D. Tex. Nov. 30, 2021), Judge Gilliland granted a motion to stay where the close of fact discovery was just three months away and a *Markman* hearing had already been held more than a month and a half earlier. EX1036, *VOIP-PAL*, Dkt. 46, at 5. As Samsung observed, the Western District “has granted stays in light of IPR proceedings when a motion to stay was filed after the *Markman* hearing took place but the parties had only begun written discovery and no depositions had been taken.” *Id.* (citing *Sonrai*, 2022 WL 3108818, at *3 and *Kirsch*, 2021 WL 4555804 at *1–2). The circumstances here are more favorable for a stay than those in *VOIP-PAL*. Contrary to PO’s claim, at the deadline for institution, fact discovery will not be “well underway.” *Id.* In reality, fact discovery will have just **opened**. EX2004 at 2 (noting that fact discovery opens on February 19, 2026, a little more than one week

before the statutory deadline for the Decision on Institution). Thus, because the Parallel Litigation is in an even earlier stage than *VOIP-PAL*, it is very likely that Judge Gilliland will grant CrowdStrike’s motion to stay.

As set forth in Section III.B, however, the Parallel Litigation will very likely remain in its early stage for much longer due to transfer, which occurs before the *Markman* hearing. Pursuant to Judge Gilliland’s Standard Order for Patent Cases, transfer will be resolved before a *Markman* hearing is conducted. EX1037, 6 (“If a motion to transfer remains pending, the Court will either promptly resolve the pending motion before the *Markman* hearing, or postpone the *Markman* hearing.”). Accordingly, *Fintiv* Factor 1 weighs against discretionary denial.

B. Trial Likely Will Not Occur Until February 2028 Based on the District-Wide Time-to-Trial Statistics—Approximately 12 Months After a Final Written Decision is Expected in This Proceeding

The underlying litigation is pending before Judge Counts in WDTX and has been referred to Judge Gilliland. The USPTO’s March 24, 2025 Memorandum states that “in applying *Fintiv*, the Board may consider any evidence that the parties make of record that bears on the proximity of the district court’s trial date[.]” While the current scheduling order sets trial for February 1, 2027, just four weeks before the anticipated final written decision, the median time to trial in this District strongly suggests the actual trial date will fall well after the final written decision. The current median time-to-trial in WDTX is ~36 months. EX1038, 2. Applying that time period

to the Parallel Litigation, trial is likely to begin in February 2028—approximately *12 months after* a final written decision is expected in this proceeding. Applying these statistics, *Fintiv* Factor 2 weighs strongly against discretionary denial.

Moreover, CrowdStrike has filed a motion seeking the transfer of the Parallel Litigation to the Northern District of California (“NDCA”) or, in the alternative, to the Austin Division of WDTX pursuant to 28 U.S.C. § 1404(a). EX1039 (CrowdStrike’s Motion to Transfer). While PO has indicated it will oppose CrowdStrike’s motion, Judge Gilliland’s history with transfer motions in patent cases suggests he will grant CrowdStrike’s motion. Of the 22 §1404(a) transfer motions that Judge Gilliland has considered, he has granted nine of them. EX1040 (Judge Gilliland’s Docket Navigator Page). Those nine granted motions share critical operative facts with CrowdStrike’s motion, strongly suggesting that Gilliland will grant transfer here. For example, CrowdStrike has shown that it has zero employees and no offices in the Midland-Odessa division. EX1039 at 7. CrowdStrike has also shown that the compulsory process secures attendance of multiple non-party entities by transferring to NDCA, a private interest factor that favors transfer. *Compare* EX1041, *Virtamove, Corp. v. Google LLC*, No. 7:24-cv-00033-DC-DTG, Dkt. 86 at *2-5 (W.D. Tex. Jan. 22, 2025) (granting transfer to NDCA because private interest factors favored transfer, including “identif[ying] several non-party witnesses in NDCA”), *with* EX1039 at 9-10 (CrowdStrike’s

Motion to Transfer). CrowdStrike has also demonstrated local interest in NDCA since its principal place of business is in NDCA. EX1039 at 11. Having a principal place of business within the proposed venue and a lack of connection to the present venue favors transfer. EX1042, *Mobile Data Technologies LLC, v. Meta Platforms, Inc.*, No. 7:22-cv-00244-ADA-DTG, Dkt. 83 at *5-6 (W.D. Tex. Dec. 18, 2023) (granting transfer to NDCA because public interest factors favored transfer, including defendant having its “principal place of business” in NDCA and neither plaintiff nor defendant “hav[ing] any connection to” WDTX). And while docket congestion comparisons between NDCA and WDTX have disfavored transfer in the past, the Federal Circuit recently concluded that, as is the case here, this factor should not be accorded any weight when the plaintiff “is not engaged in product competition in the marketplace and is not threatened in the market in a way that, in other patent cases, might add urgency to case resolution.” *In re Google LLC*, 58 F.4th 1379, 1383 (Fed. Cir. 2023). Moreover, in the single case where a plaintiff filed objections to Judge Gilliland’s grant of transfer, Judge Counts **overruled** that objection and the Federal Circuit denied the plaintiff’s petition for writ of mandamus. EX1043, *Virtamove*, Dkt. 102. Importantly, when this case is transferred, a new schedule will eventually be set, a stay motion will be filed and almost certainly granted, and any trial will occur long after the final written decision.

Fintiv Factor 2, therefore, weighs against discretionary denial. Consequently, *Fintiv* Factor 5 also weighs against discretionary denial. *See, e.g., BOE Tech. Grp. Co., Ltd. v. Optronic Scis. LLC*, IPR2024-01130, Paper 16 at 13 (PTAB Jan. 27, 2025) (Factor 5’s weight for or against denial follows Factor 2).

C. Minimal Investment in the Parallel Litigation Weighs Against Discretionary Denial

The Parallel Litigation is in its early stages. As PO recognizes, one key consideration in determining how to weigh this factor is whether, at the time of institution, “the district court has issued substantive orders related to the patent at issue in the petition,” including the issuance of a claim construction order. Paper 7 at 10 (quoting *Apple Inc. v. Fintiv, Inc.*, IPR2020-00019, Paper 11 at 9–10 (PTAB Mar. 20, 2020)). At the deadline for institution here, neither a claim construction order nor any other substantive order relating to the ’900 Patent will have issued. As PO admits, the parties’ *Markman* hearing will not occur until at least February 18, 2026—just 10 days before the deadline for institution. *Id.*, 10-11. Nor are any other substantive decisions expected by the deadline for institution. Regardless of this timeline, the Court is likely to rule in favor of CrowdStrike’s motion to transfer, thereby significantly prolonging the early stage of the Parallel Litigation. *Supra*, Section III.B.

The work that the parties had completed when PO filed its discretionary denial brief was not substantial. Beyond the completion of PO’s preliminary infringement

contentions and CrowdStrike’s preliminary invalidity contentions, the only work that had been done relates to routine procedural events (e.g., holding a pretrial conference, issuing a scheduling order) and non-substantive motion practice (e.g., CrowdStrike’s transfer motion). Paper 7 at 10. The schedule disputes PO’s claims that substantial effort “will have been committed” to the Parallel Litigation at the time this proceeding is instituted. *Id.* The deadline for joinder of parties will not take place until more than two weeks after institution, and, contrary to PO’s claims, fact discovery will not “be well underway.” *Id.* Fact discovery will open just ten days before the statutory deadline for the Decision on Institution. *Id.*; EX2004 at 2 (identifying February 19, 2026, as the date that fact discovery opens). Thus, the only work identified by PO that will occur by institution is the parties’ preparation of their claim construction briefing. Paper 7 at 10. But a claim construction order, not the completion of briefing, is the proper metric for assessing *Fintiv* Factor 3. *Fintiv*, Paper 11 at 10. *Fintiv* Factor 3, therefore, weighs against discretionary denial.

D. CrowdStrike’s *Sotera*+ Stipulation Mitigates Any Remaining Overlap Concerns Between this IPR and the Litigation

To mitigate the possibility that there will be overlap between the issues in this proceeding and the parallel litigation, CrowdStrike filed a broadened *Sotera*+ stipulation. EX1031. If the PTAB institutes this proceeding, CrowdStrike’s stipulation precludes it from pursuing in the parallel litigation against the claims challenged in this IPR:

(i) the specific grounds raised in IPR2025-01398, (ii) any other grounds that could have reasonably been raised before the PTAB in that instituted proceeding (i.e., any ground that could have reasonably been raised under §§ 102 or 103 on the basis of prior art patents or printed publications), or (iii) any ground based on a combination of system prior art and the references asserted as part of a ground raised in IPR2025-01398, as reflected in the table summarizing the Statutory Grounds for Challenges on pages 4-5 of the Petition.

Id., 2. Thus, CrowdStrike’s stipulation negates **any** concern that any issue before this Board will be relitigated in the parallel proceeding. *Fintiv* Factor 4, therefore, weighs strongly against discretionary denial. *See, e.g., Tesla v. Intellectual Ventures*, Paper 9 at 2 (finding *Sotera+* stipulation “counsel[s] against discretionary denial”).

PO nonetheless contends that *Fintiv* Factor 4 favors discretionary denial because CrowdStrike’s broadened *Sotera+* stipulation “does not avoid overlap because invalidity and claim-construction briefs will already be complete before institution.” Paper 7 at 12. But PO’s arguments in support of that conclusion are inapposite. First, as stated above, the *Sotera+* stipulation expressly removes concerns of overlap between these proceedings and the parallel litigation. Second, PO cites unpersuasive case law for its support. In *Motorola*, Petitioner presented a *Sotera* stipulation lacking a stipulation to system prior art and the references asserted in the IPR, as is the case here. *Motorola Solutions, Inc., v. Stellar, LLC*, IPR2024-01205, Exhibit 1043 (EX1044). Even still, the Director denied institution in *Motorola* because the other *Fintiv* factors weighed against institution, pointing specifically to the investment in parallel proceedings. *Motorola*, Paper 19 at 4. This

is not the case here. *Supra*, Section III.C. Similarly, PO conveniently ignores the express guidance in the March 24, 2025 Memo—a Petitioner’s *Sotera* stipulation “is highly relevant” to the Board’s discretionary denial analysis. *Fintiv* Factor 4 therefore weighs heavily against discretionary denial.

E. CrowdStrike’s Petition is Supported by an Exemplary Expert Declaration and Demonstrates the Claims are Unpatentable

PO incorrectly asserts that CrowdStrike’s Petition over-relies on expert testimony, favoring denial. Paper 7 at 16-17. In fact, each ground in the Petition properly specifies, with supporting expert testimony, where each element of each claim is found in the prior art. *See generally* Paper 1 at 17-63; EX1003. When a combination of references is relied on to establish the obviousness of a particular limitation, the Petition presents detailed, specific reasons supported by expert testimony, showing why a POSITA would have been motivated to combine the prior art as proposed and would have had a reasonable expectation of success in making the proposed combinations. *See, e.g.*, Paper 1, 21-23; EX1003, ¶¶103-113. In sum, CrowdStrike’s unpatentability challenges, supported with extensive expert testimony that is, itself, supported by objective evidence, are quite strong. *See Tesla, Inc. v. Charge Fusion Techs., LLC*, IPR2025-00032, Paper 11 at 39 (PTAB May 19, 2025) (“[A]pplaud[ing]” Petitioner and the expert for “leav[ing] virtually none of the substance of his testimony unsupported by objective evidence” by supporting its Petition with a 278 page expert declaration containing extensive explanations “with

citations to dozens of pieces of objective evidence”). Beyond general observations that Petitioner’s expert declaration is comprehensive, PO fails to identify any specific reliance on expert testimony that it characterizes as improper.

F. National Security Interests Favor Institution of CrowdStrike’s IPR of the ’900 Patent, not Discretionary Denial

PO correctly observes that national security interests bear on institution, but wrongly concludes that national security favors discretionary denial. Paper 7 at 17-20. As the Improving the Nation’s Cybersecurity executive order explained, “[t]he private sector must adapt to the continuously changing threat environment...and partner with the Federal Government to foster a more secure cyberspace.” EX2008, § 1. The continued enforcement of the ’900 Patent—which CrowdStrike has shown is invalid (*supra* Sections II.A, III.E)—undermines the government’s directive. PO fails to show that PO, or an unrelated third party, has commercialized any product utilizing the ’900 Patent’s alleged invention. As a threshold matter, to serve as a national security interest, the ’900 Patent’s alleged invention needs to be commercialized. Without implementation, no national security interest is furthered. Contrarily, preventing domestic companies from protecting computer systems by asserting an invalid patent is directly contrary to express national security interests.

IV. CONCLUSION

For at least these reasons, CrowdStrike respectfully requests that the Board deny PO’s request for discretionary denial.

Respectfully submitted,

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

COUNSEL FOR PETITIONER

APPENDIX OF EXHIBITS

Exhibit 1001	U.S. Patent No. 11,275,900 to Patil et al. (“’900 Patent”)
Exhibit 1002	File History of U.S. Patent No. 11,275,900 (“’900 Patent File History”)
Exhibit 1003	Declaration of Erez Zadok, Ph.D. (“Dec.”)
Exhibit 1004	Isuf Deliu, <i>Extracting Cyber Threat Intelligence From Hacker Forums</i> , NTNU Norwegian University of Science and Technology, Doctoral Thesis Submitted June 2017 , Carl Leichter, and Katrin Franke (“Deliu”)
Exhibit 1005	U.S. Patent No. 9,330,167 to Pendar (“Pendar”)
Exhibit 1006	Declaration of June Munford (“Munford Dec.”)
Exhibit 1007	Eibe Frank, <i>Pruning Decision Trees and Lists</i> , University of Waikato, Submitted January 2000 (“Frank”)
Exhibit 1008	Mallinali Ramirez-Corona et al., <i>Multi-label Classification for Tree and Directed Acyclic Graphs Hierarchies</i> , Probabilistic Graphical Models, PGM 2014, (2014) (“Ramírez-Corona”)
Exhibit 1009	Nitesh V. Chawla et al., <i>SMOTE: Synthetic Minority Over-sampling Technique</i> , Journal of Artificial Intelligence Research 16 (2002) 321-357 (“Chawla”)
Exhibit 1010	Tong Xiao et al., <i>KNN and Re-ranking Models for English Patent Mining at NTCIR-7</i> , Proceedings of NTCIR-7 Workshop Meeting, (2008) (“Xiao”)
Exhibit 1011	U.S. Patent No. 7,028,250 to Ukrainczyk et al. (“Ukrainczyk”)
Exhibit 1012	Eric Nunes et al., <i>Darknet and Deepnet Mining for Proactive Cybersecurity Threat Intelligence</i> , Proceedings of the 2016 IEEE Conference on Intelligence and Security Informatics (“Nunes”)
Exhibit 1013	<i>Top 10 Dark Web and Deep Web Forums of 2025</i> , https://cyble.com/knowledge-hub/top-10-dark-web-forums/ , (“Cyble”)
Exhibit 1014	<i>Dark Web vs. Deep Web: 5 Key Differences</i> , https://www.Spiceworks.com/it-security/security-general/articles/dark-web-vs-deep-web/ , (“Spiceworks”)
Exhibit 1015	Thomas Hoffman et al., <i>Hierarchical Document Categorization with Support Vector Machines</i> , CIKM ’04: Proceedings of the thirteenth ACM international conference on Information and knowledge management, (2004) (“Hoffman”)
Exhibit 1016	Isuf Deliu, Carl Leichter, and Katrin Franke, <i>Extracting cyber threat intelligence from hacker forums: Support vector machines versus convolutional neural networks</i> , 2017 IEEE International

	Conference on Big Data (BIGDATA), 3648-3656 (2017) (“ <i>Deliu Paper</i> ”)
Exhibit 1017	Xinqi Zhu <i>et al.</i> , <i>B-CNN: Branch Convolutional Neural Network for Hierarchical Classification</i> , <i>arXiv.org</i> , (2017) (“ <i>Zhu</i> ”)
Exhibit 1018	Zhicheng Yan <i>et al.</i> , <i>HD-CNN: Hierarchical Deep Convolutional Neural Networks for Large Scale Visual Recognition</i> , 2015 IEEE International Conference on Computer Vision (ICCV), (2015) (“ <i>Yan</i> ”)
Exhibit 1019	Quoc Le <i>et al.</i> , <i>Distributed Representations of Sentences and Documents</i> , Proceedings of the 31st International Conference on Machine Learning, PMLR 32(2):1188-1196, (2014) (“ <i>Le</i> ”)
Exhibit 1020	Revanth Patil <i>et al.</i> , <i>Multi-class and Multi-label classification of Darkweb Data</i> , Arizona State University, (Approved March 2018) (“ <i>Patil Thesis</i> ”)
Exhibit 1021	Alex Smola <i>et al.</i> , <i>Introduction to Machine Learning</i> , (2008) (“ <i>Smola</i> ”)
Exhibit 1022	Okapi-BM25, https://en.wikipedia.org/wiki/Okapi_BM25 , (“ <i>Okapi-BM25 Wikipedia Webpage</i> ”)
Exhibit 1023	M. Hassler <i>et al.</i> , <i>Text preparation through extended tokenization</i> , Data Mining VII: Data, Text and Web Mining and their Business Applications, (2006) (“ <i>Hassler</i> ”)
Exhibit 1024	Jasmeet Singh <i>et al.</i> , <i>A systematic review of text stemming techniques</i> , Artificial Intelligence Review, (2016) (“ <i>Singh</i> ”)
Exhibit 1025	Tianjun Fu <i>et al.</i> , <i>A Focused Crawler for Dark Web Forums</i> , Journal of the American Society for Information Science and Technology, (2010) (“ <i>Fu</i> ”)
Exhibit 1026	Mitch Macdonald <i>et al.</i> , <i>Identifying Digital Threats in a Hacker Web Forum</i> , IEEE/ACM International Conference on Advances in Social Networks Analysis and Mining, (2015) (“ <i>Macdonald</i> ”)
Exhibit 1027	Roman Eisner <i>et al.</i> , <i>Improving Protein Function Prediction using the Hierarchical Structure of the Gene Ontology</i> , 2005 IEEE Symposium on Computational Intelligence in Bioinformatics and Computational Biology, (2005) (“ <i>Eisner</i> ”)
Exhibit 1028	Alaa Alahmadi, <i>Automatic text classification using bag of words and bag of concepts based representations</i> , University of Limerick, (2016) (“ <i>Alahmadi</i> ”)
Exhibit 1029	Microsoft Computer Dictionary, 5 th ed., 2002, excerpts (“ <i>Microsoft Computer Dictionary</i> ”)
Exhibit 1030	Curriculum vitae (CV) of Dr. Erez Zadok

Exhibit 1031	Petitioner CrowdStrike, Inc.’s Notice of Sotera Plus Stipulation
Exhibit 1032	’900 Patent Assignment to Skysong Innovations, LLC (Executed January 29, 2025)
Exhibit 1033	Declaration of Dr. Shakarian in Related IPR2025-01170 (’897 IPR)
Exhibit 1034	Declaration of Dr. Shakarian in Related IPR2025-01397 (’385 IPR)
Exhibit 1035	<i>Quantum Imaging, LLC v. Sony Interactive et al.</i> , No. 1:23-CV-1212-ADA-DTG, Dkt. 357 (W.D. Tex. Dec. 4, 2024)
Exhibit 1036	<i>VOIP-PAL.com, Inc. v. Samsung Elecs. Co., Ltd.</i> , No. 6:21-cv-01246, Dkt. 46 (W.D. Tex. Nov. 30, 2021)
Exhibit 1037	Standing Order Governing Proceedings (OGP) 4.4 – Patent Cases, Western District of Texas Waco Division
Exhibit 1038	U.S. District Courts Median Time to Trial During 12-Month Period Ending June 30, 2025
Exhibit 1039	<i>Skysong Innovations, LLC v. CrowdStrike, Inc. et al.</i> , No. 7:25-cv-00040-DC-DTG, Dkt. 61 (W.D. Tex. Oct. 9, 2025) (Motion to Transfer)
Exhibit 1040	Docket Navigator Page Showing Success Rate of Motions to Transfer for Judge Gilliland
Exhibit 1041	<i>Virtamove, Corp. v. Google LLC</i> , No. 7:24-cv-00033-DC-DTG, Dkt. 86 (W.D. Tex. Jan. 22, 2025) Order Granting Motion to Transfer Venue
Exhibit 1042	<i>Mobile Data Technologies LLC, v. Meta Platforms, Inc.</i> , No. 7:22-cv-00244-ADA-DTG, Dkt. 83 (W.D. Tex. Dec. 18, 2023) Order Granting Motion to Transfer Venue
Exhibit 1043	<i>Virtamove, Corp. v. Google LLC</i> , No. 7:24-cv-00033-DC-DTG, Dkt. 102 (W.D. Tex. May 7, 2025) Order of Transfer
Exhibit 1044	<i>Motorola Solutions, Inc., v. Stellar, LLC</i> , IPR2024-01205, EX1043 (Petitioner’s Sotera Stipulation)

CERTIFICATE OF SERVICE ON PATENT OWNER

Pursuant to 37 C.F.R. § 42.6(e), the undersigned certifies that on December 1, 2025, the foregoing *Petitioner's Opposition To Patent Owner's Request For Discretionary Denial and Exhibits* were served via electronic filing with the Board and via Electronic Mail on the following counsel of record for PO:

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