

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. IPR2025-01399
U.S. Patent No. 11,775,831

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

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I. INTRODUCTION

The Petition presents an early invalidity challenge to a 2-year-old patent that was substantively untested during prosecution. The '831 Patent issued after a first-action Notice of Allowance, and its cursory review was the direct result of the Examiner failing to search for the core concept underlying the Challenged Claims. That core concept, as the '831 Patent explains, creates efficiencies in a convolutional neural network (“CNN”) by first “comput[ing] a value that *approximates* the full precision computation” and then “mak[ing] a decision based on the *approximate* results which data set to . . . perform the . . . full precision (e.g., more accurate) computations[.]” EX1001, 3:50-4:9.¹ Every Challenged Claim reflects this process of *approximating* a full precision computation to identify data sets important enough for *actual* full precision computations. Yet the Examiner’s search strategy failed to include any variation of “approximate.” Had it, the Examiner would undoubtedly have uncovered *Ujiie* and *Moons*—the two prior art references that form the core of Petitioner’s Proposed Grounds. *Ujiie* is titled, “*Approximated* Prediction Strategy for Reducing Power Consumption of [CNN] Processor[.]” and *Moons* is titled, “Energy-Efficient [CNNs] Through *Approximate* Computing[.]” EX1004, EX1005.

The Examiner materially erred by failing to search this core concept, and statistics suggest this is not an isolated incident. This Examiner maintains an 88%

¹ All emphases added unless noted otherwise.

allowance rate, far exceeding the Office as a whole and his specific art unit. This Examiner is “an easier examiner and in the 21st percentile across all examiners (with 100th percentile most difficult).” EX1034. Petitioner’s strong invalidity challenge gives the Office an opportunity to rectify the ’831 Patent’s cursory examination, furthering the goal of its “Data-Driven Quality Initiative” to review examination areas that exhibit statistical deviation from established norms. EX1035.

Patent Owner (“PO”) presents three weak arguments in support of discretionary denial. **First**, PO highlights speculative litigation timelines. But even a cursory review shows the litigation timelines disfavor discretionary denial. The trial date between the parties is scheduled *a full year* before the District’s median time-to-trial, strongly suggesting that it will not hold. Regardless, trial will likely be transferred to a proper venue before the *Markman* hearing, significantly prolonging the early stages of litigation. PO points to litigation against an unrelated third party, Fortinet. But Fortinet’s history as a litigant suggests that trial will never happen. Fortinet has found itself in District Court over 100 times, but has tried *only one* case to a jury. And that sole outlier was a consolidated case with over 30 co-defendants. EX1036 (Fortinet’s Docket Navigator Page). This speculation and uncertainty with the district court timelines strongly favors adjudication at the PTAB.

Second, PO acknowledges the Petition relies on new art never considered during prosecution, but insists the Petition presents “the same types of ideas”

confronted during prosecution to support an *Advanced Bionics* rejection. Because PO fails to provide any meaningful analysis to support the *Advanced Bionics* framework, Part I fails. But even if the Director were to consider Part 2, the Examiner materially erred by issuing a first action Notice of Allowance without searching the core concept underlying the Challenged Claims.

Third, PO claims the 2-year-old '831 Patent deserves special treatment because it was privately funded, which PO contends establishes settled expectations that funded research results in valid patents. While facially speculative, the record proves otherwise. According to Skysong's Executive Director, this funding comes with **"no guarantee that any given project will produce any commercially useful findings, let alone commercially useful IP[.]"** EX2007, ¶5. The parties entered into a private research funding agreement with tempered expectations surrounding the results of that research. No settled expectations of validity attach to that arrangement.

II. THE IPR IS AN APPROPRIATE USE OF BOARD RESOURCES

A. The IPR Art Was Not Previously Considered

Acknowledging the Petition presents completely new art, PO asserts the Petition "relies on the same *types of ideas* the Examiner already confronted during prosecution," pointing to *Rozen*, *Koster*, *Tarolli*, and *Langhammer* cited in the Examiner's Notice of Allowance. Paper 7, 16. Namely, PO contends "[t]he Petition's new references, *Ujiie*, *Moons*, *Kaul*, *Ishii*, and *Ravindran*, fit within that

same technical space and confirm only that the field was experimenting with approximate and MSB based techniques to trade accuracy for efficiency[.]” *Id.* at 16. PO’s analysis ends here. It does not substantively compare the art or assess any overlap between any prosecution arguments and the manner in which Petitioner relies on the prior art. Accordingly, Part I of *Advance Bionics* fails.

The ’831 Patent issued after a first Action Notice of Allowance. EX1002, 138-150. The Examiner found the claimed invention novel over *Rozen*, *Koster*, *Tarolli*, and *Langhammer*. *Rozen* disclosed “techniques of implementing neural networks for speech recognition systems.” *Id.* at 146. *Koster* related to “techniques of performing a neural network computation based on the received sequence of tensor instructions to generate output tensors[.]” *Id.*, 147. *Tarolli* discussed “a system and method for compressing and decompressing a texture image[.]” and *Langhammer* described “techniques of performing reduced-precision floating-point arithmetic operations using specialized processing blocks[.]” *Id.*, 148. PO fails to explain how any of these “ideas” are similar to *Ujiie*’s or *Moon*’s CNN-focused approximate computations.

Ujiie teaches a convolutional neural network (CNN) that performs “AppConv [approximated convolution]” on multiple datasets, executes “max pooling [on] the results of AppConv[.]” and performs “exact convolution (Conv) against the specified window predicted by...AppConv[.]” *Ujiie*, 3-4, Fig. 2b; Paper 1, 12-29. With *Moons*, *Ujiie*’s approximate convolution “drastically reduce[s] the number of

bits that encode the weights and inputs [i.e., the most significant bits].” *Moons*, 1; Paper 1, 16-24. *Ujii-Moons*, unlike the art of record, teaches the claimed approximate convolutions followed by a second full precision convolution. PO does not even suggest the prosecution art taught similar concepts. Thus, Petitioner’s grounds are not cumulative and the Director need not reach Part 2 of the *Advanced Bionics* framework. IPR2019-01469, Paper 6 at 10.²

B. The Examiner Erred in Its Cursory Search

Should the Director reach Part 2, the record shows that had the Examiner performed a more robust search, the broad claims of the ’831 Patent would not have issued unrejected over the prior art. Namely, the Examiner’s search failed to contemplate the core concept underlying the Challenged Claims. Essential to limitations that gained allowance is a CNN that “computes a value that *approximates* the full precision computation[.]” and then “make[s] a decision based on the *approximate* results which data set to...perform the...full precision (e.g., more accurate) computations[.]” EX1001, 3:50-4:9. This *approximation* is required of

² PO’s argument that “Petitioner does not point to any concrete examination error” (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.

every Challenged Claim.³ But the Examiner failed to search any variation of “approximate.” EX1002, 113-131 (the Examiner’s search strategies). Instead, the Examiner focused on “precision” and “accuracy.” *Id.* Had the Examiner searched this core concept, *Ujiie*, *Moons*, or similar references would have been located. *Ujiie* is titled “***Approximated*** Prediction Strategy for Reducing Power Consumption of [CNN] Processor[,]” and *Moons* is titled “Energy-Efficient ConvNets Through ***Approximate*** Computing.” EX1004, EX1005.

Examiners must “conduct a thorough and complete search of the prior art.” MPEP 904.02. The record here supports a cursory and incomplete search that lacked the core concept of the ’831 Claims—***approximate computing***. This cursory search appears to be a trend for this Examiner. The ’831 Patent’s Examiner has an 88% allowance rate compared to a USPTO average of 76%. EX1034, 1. And the year of the ’831 Patent’s allowance, this Examiner allowed 53 of a total 58 resolved applications, averaging over 90%. EX1034, 3. Petitioner’s strong invalidity challenge gives the Office an opportunity to rectify the ’831 Patent’s cursory

³ Claim 1 requires “computing a value based on a first set of most significant bits (MSBs) for each of a plurality of data sets” and then “performing a full precision computation of the value for a data set . . . that exhibited the maximum value[.]” Ex. 1001, Claim 1. The patent explains that computing with a data set’s MSBs ***approximates*** a full precision computation of that data set. *Id.*, 3:50-4:9.

examination, furthering the goal of its “Data-Driven Quality Initiative” to review examination areas that exhibit statistical deviation from established norms. EX1035.

C. PO has not Developed Settled Expectations in the ’831 Patent

PO “has not developed strong settled expectations” that the ’831 Patent would not be challenged because the ’831 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 ’831 Patent issued just over 2 years ago: Oct. 3, 2023. 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. 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 '831 Patent has been in force for just over two years, PO nonetheless argues it has settled expectations in the '831 Patent's validity because it "is part of a mature...cybersecurity portfolio with family members in force since as early as June 4, 2019." Paper 7 at 14. Critically, this alleged "portfolio" consists of legally unrelated patents, which PO seeks to treat collectively by characterizing them as "technologically and commercially interrelated" under a "single ASU-originated cybersecurity portfolio[.]" Paper 7 at 4. This attempted bundling falls flat. **First**, PO mischaracterizes the '831 Patent. **It is not connected to the cybersecurity portfolio and had no clear connection to cybersecurity at all.** The specification discusses implementing the claimed CNN architecture in computer vision, including "small and/or portable device(s)...that have limited hardware capabilities...[and] embedded computing devices...that are included in automobiles, drones, and/or other vehicles[.]" EX1001, 4:15-22, 4:42-50. Notably absent is any correlation to cybersecurity. *See* Paper 7 (citing no cybersecurity applications in the '831 Patent).

Second, PO's own markedly different descriptions of the Asserted Patents and their intended uses cuts against treating them as a singular unit. 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” five 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”).

PO also contends that because the ’831 Patent resulted from a sponsored research agreement (“SRA”), that this created settled expectations of validity of any patents that came out of that SRA. But the Executive Director and Chief Patent

Counsel at Skysong, Mr. Siegal, directly contradicts Skysong’s position, opining these investments have “**no guarantee that any given project will produce any commercially useful findings, let alone commercially useful IP[.]**” EX2007, ¶5. There were no expectations that commercially useful, valid patents would result from the SRA and therefore no settled expectations attach.

Lastly, PO presents no evidence that it, or its alleged investor, has commercialized the ’831 Patent. Indeed, Skysong’s website states it focuses on *licensing*, not commercialization.⁴ Failing to commercialize “weighs against [a] Patent Owner’s claim of strong settled expectations.” *Shenzen Tuozechu Technology Co., LTD, v. Stratasys, Inc.*, IPR2025-00438, Paper 10 at 3 (PTAB July 17, 2025).

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 6-8. In support, PO cites a single case in the Western District: *Datanet LLC v. Dropbox Inc.* In that decision, Judge Gilliland noted that stay was requested before institution and expressly distinguished *Datanet’s* procedural posture from other post-institution cases in which a stay was granted. EX1037, 9-10. Here, because Petitioner will seek a stay only *after* the IPR is instituted, the *Datanet* decision is inapposite.

⁴ See <https://skysonginnovations.com/industry/>.

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 been held more than a month and a half earlier. EX1038 (Granting Stay); *see also*, EX1039, 8 (Motion to Stay). 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 in *VOIP-PAL*. At the deadline for institution here, fact discovery will have just begun. 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.

Regardless, as set forth in Section III.B, the Parallel Litigation will very likely remain in its early stage for much longer due to transfer, which occurs before the *Markman* hearing. *In re TracFone Wireless, Inc.*, 848 Fed.Appx. 899, 900-901 (Fed. Cir. 2021) (granting Mandamus and ordering district court to stay all proceedings and give transfer motions “top priority” before resolving substantive issues in the case); *In re Apple Inc.*, 979 F.3d 1332, 1337 (Fed. Cir. 2020) (same); *see also In re SK Hynix Inc.*, 835 Fed.Appx. 600, 601 (Fed. Cir. 2021) (delaying ruling on transfer

motion “amounted to egregious delay and blatant disregard for precedent”). 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 10 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, two months 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. EX1040, 2. Applying that time period to the Parallel Litigation, trial is likely to begin in February 2028—approximately ***10 months after*** a final written decision is expected in this proceeding. Recent decisions confirm that district statistics are indeed balanced with scheduled trial dates. *See ClearCorrect Operating, LLC, v. Align Technology, Inc.*, IPR2025-00818, Paper 14 at 2 (PTAB Aug. 29, 2025) (finding factor neutral where “statistics suggest[ed] that the trial will not begin” until after the scheduled date and near the FWD). Therefore, applying these statistics, *Fintiv* Factor 2 weighs strongly against discretionary denial.

Changing course, PO cites the trial timeline in its unrelated case against Fortinet Inc. for support of a pre-FWD trial. Paper 7, 9. However, Fortinet's litigation history tells a different story. Of the 103 District Court cases it has been party to, ***only once*** was a case heard by the jury. EX1036, 1. And that was a consolidated jury trial with 33 different defendants lumped into a single suit. EX1041. In other words, Fortinet has *never* made it to trial in a case factually analogous to Skysong's case against it. With these stats, the stated trial date in the Fortinet litigation will likely never be reached. Either way, it is unclear if the invalidity arguments in that unrelated Fortinet litigation are the same or substantially the same as those presented by CrowdStrike in this IPR. *Intel Corp. et al. v. General Video, LLC*, IPR2025-01036, Paper 13, 2-3 (Director Oct. 17, 2025). Therefore, under these facts, *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). EX1042 (CrowdStrike's Motion to Transfer). While PO has indicated it will oppose CrowdStrike's motion, Judge Gilliland, who is assigned by Judge Counts, has historically granted transfer motions in patent cases with similar facts in CrowdStrike's motion. Of the 22 §1404(a) transfer motions that Judge Gilliland has considered, he has granted nine of them. EX1043 (Judge Gilliland's Docket

Navigator Page). Those granted motions share critical operative facts with CrowdStrike's motion, strongly suggesting that Judge Gilliland will grant transfer here. For example, CrowdStrike has shown that at the filing of the Complaint, it has no employees or offices in the Midland-Odessa Division. EX1042 at 7. CrowdStrike has also shown that the ability to obtain compulsory process of multiple non-party entities by transferring to NDCA also favors transfer. *Compare* EX1044, *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* EX1042 at 9-10 (CrowdStrike's Motion to Transfer). CrowdStrike has also demonstrated a stronger local interest in NDCA since its principal place of business is in Sunnyvale, California in NDCA, and the accused functionalities were not primarily developed in WDTX. EX1042 at 11, *see also*, EX1045, *Parus Holdings, Inc. v. Apple Inc.*, No. 6:21-cv-00968-ADA, ECF No. 94, at 22 (W.D. Tex. Nov. 22, 2022) (finding NDCA "has a stronger local interest in deciding the issues in this case" in part due to Apple being headquartered there). Having a principal place of business within the proposed venue and a lack of connection to the present venue favors transfer. EX1046, *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. EX1047, *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. Optronix 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. A key consideration for 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)). The WDTX Court will have to decide on CrowdStrike’s motion to transfer before conducting its *Markman* hearing. *Supra*, Section III.B. The Court is likely to rule in favor of CrowdStrike’s motion to transfer prior to the *Markman* hearing, significantly prolonging the early stage of the Parallel Litigation. *Supra*, Section III.B. Given that a claim construction order is the proper metric for assessing *Fintiv* Factor 3 (*Fintiv*, Paper 11 at 10), and an order is unlikely if transfer is granted, *Fintiv* Factor 3 weighs against discretionary denial.

Importantly, Judge Gilliland has moved quickly to stay similar cases in which an institution decision has been granted. *VOIP-PAL*, Dkt. 46 (EX1039) (Motion to Stay, filed February 27, 2023) Text Order (EX1038) (Granting Motion to Stay, Entered April 19, 2023, less than 2 months after the initial motion was filed).

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

PO’s “portfolio-wide overlap” argument does not fall under *Fintiv* Factor 4 and can quickly be dispelled. *Infra*, Section III.G. Rather, squarely within Factor 4, Petitioner has mitigated the possibility that there will be overlap between the issues in this proceeding and the parallel litigation by filing a broadened *Sotera+* stipulation. EX1033. 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 IPR2025-01399, (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 IPR2025-01399, as reflected in the table summarizing the Statutory Grounds for Challenges on pages 5-6 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 this factor favors denial because CrowdStrike’s broadened *Sotera+* stipulation “does not avoid overlap because invalidity contentions and claim-construction briefs will already be complete before institution.” Paper 7 at 13. 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 (EX1048). 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 3 (stating that at the time the POPR was filed, “the parties had served extensive infringement and invalidity contentions, served opening and rebuttal expert reports, filed claim construction briefs, and conducted several depositions...The court also had held a claim construction hearing and construed the disputed claim terms”). This is not the case here. *Supra*, Section III.A, 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 16-18. 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 12-55; 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, 18-24; EX1003, ¶¶80-94. 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 ’831 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 18-20. 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 ’831 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 ’831 Patent’s alleged invention. As a threshold matter, to serve as a national security interest, the ’831 Patent’s alleged invention needs to be

commercialized. Without implementation, no national security interest is furthered. Preventing domestic companies from protecting computer systems by asserting an invalid patent is directly contrary to express national security interests.

G. Patent Owner’s Assertion of Disparate, Unrelated, and Complex Patents Supports Institution

PO repeatedly recites “portfolio-wide overlap” as a factor that weighs in favor of discretionary denial, citing no supporting authority and yet roping it into both *Fintiv* Factor 4 and Factor 6. Paper 7 at 11-12, 20. This argument is meritless and directly contradicts the Director’s recent guidance. *Tesla, Inc. v. Intellectual Ventures*, Paper 9 at 3 (asserting a “large number and vast scope of the patents...weighs against discretionary denial[.]”); *supra*, Section II.C. Contrary to PO’s assertions, the Asserted Patents are each directed to disparate subject matter, thereby negating any duplicative briefing or expert disputes, inconsistent outcomes, estoppel timelines, or stipulation disputes. *Supra*, Sec. II.C. Rather, in such cases like this, “the Board is better suited to review” the five distinct patents “involving diverse subject matter.” *Id.* Accordingly, *Fintiv* Factors 4 and 6 weigh against discretionary denial.

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. 11,775,831 (“the ’831 Patent”)
Exhibit 1002	File History of the ’831 Patent
Exhibit 1003	Declaration of Eli Saber, Ph.D. (“Dec”)
Exhibit 1004	Takayuki Ujiie <i>et al.</i> , <i>Approximated Prediction Strategy for Reducing Power Consumption of Convolutional Neural Network Processor</i> , 2016 IEEE Conference on Computer Vision and Pattern Recognition Workshops (2016) (“Ujiie”)
Exhibit 1005	Bert Moons <i>et al.</i> , <i>Energy-Efficient ConvNets Through Approximate Computing</i> , IEEE Winter Conference on Applications of Computer Vision (2016) (“Moons”)
Exhibit 1006	Himanshu Kaul <i>et al.</i> , <i>A 21.5M-Query-Vectors/s 3.37nJ/Vector Reconfigurable k-Nearest-Neighbor Accelerator with Adaptive Precision in 14nm Tri-Gate CMOS</i> , 2016 IEEE International Solid-State Circuits Conference (2016) (“Kaul”)
Exhibit 1007	U.S. Patent Application Publication No. 2016/0259995 A1 to Ishii <i>et al.</i> (“Ishii”)
Exhibit 1008	U.S. Patent Application Publication No. 2016/0259994 A1 to Ravindran <i>et al.</i> (“Ravindran”)
Exhibit 1009	Declaration of June Munford (“Munford Dec.”)
Exhibit 1010	Declaration of Gordon MacPherson (“MacPherson Dec.”)
Exhibit 1011	Matthieu Courbariaux <i>et al.</i> , <i>Binarized Neural Networks: Training Neural Networks with Weights and Activations Constrained to +1 or -1</i> , arXiv: 1602.02830v3 [cs.LG] (March 17, 2016) (“Courbariaux”)
Exhibit 1012	Minkyu Kim <i>et al.</i> , <i>An Energy-Efficient Deep Convolutional Neural Network Accelerator Featuring Conditional Computing and Low External Memory Access</i> , IEEE Journal of Solid-State Circuits, Vol. 56, No. 3 (2020) (“Kim”)
Exhibit 1013	Yann LeCun <i>et al.</i> , <i>Gradient-Based Learning Applied to Document Recognition</i> , Proceedings of the IEEE (1998) (“LeCun I”)
Exhibit 1014	Jiuxiang Gu <i>et al.</i> , <i>Recent Advances in Convolutional Neural Networks</i> , arXiv: 1512.07108v1 [cs.CV] (December 22, 2015) (“Gu”)
Exhibit 1015	Dominik Scherer <i>et al.</i> , <i>Evaluation of Pooling Operations in Convolutional Architectures for Object Recognition</i> , 20 th International Conference on Artificial Neural Networks (ICANN), Thessaloniki, Greece (2010) (“Scherer”)
Exhibit 1016	U.S. Patent No. 9,886,948 to Garimella <i>et al.</i> (“Garimella”)

Exhibit 1017	Dingjun Yu <i>et al.</i> , <i>Mixed Pooling for Convolutional Neural Networks</i> , The 9 th International Conference on Rough Sets and Knowledge Technology (2014) (“Yu”)
Exhibit 1018	Alex Krizhevsky <i>et al.</i> , <i>ImageNet Classification with Deep Convolutional Neural Networks</i> , Advances in Neural Information Processing Systems (2012) (“Krizhevsky”)
Exhibit 1019	Thomas L. Floyd, <i>Digital Fundamentals</i> , 11 th ed., Pearson Education Ltd. 2015, excerpts (“Floyd”)
Exhibit 1020	<i>Intentionally left blank</i>
Exhibit 1021	Yoshua Bengio <i>et al.</i> , <i>Estimating or Propagating Gradients Through Stochastic Neurons for Conditional Computation</i> , arXiv: 1308.3432v1 [cs.LG] (August 15, 2013) (“Bengio 1”)
Exhibit 1022	Emmanuel Bengio <i>et al.</i> , <i>Conditional Computation in Neural Networks for Faster Models</i> , arXiv: 1511.06297v1 [cs.LG] (November 19, 2015) (“Bengio 2”)
Exhibit 1023	Vincent Vanhoucke <i>et al.</i> , <i>Improving the speed of neural networks on CPUs</i> , Deep Learning and Unsupervised Feature Learning Workshop, NIPS (2011) (“Vanhoucke”)
Exhibit 1024	Patrick Judd <i>et al.</i> , <i>Reduced-Precision Strategies for Bounded Memory in Deep Neural Nets</i> , International Conference on Learning Representations 2016 (2016) (“Judd”)
Exhibit 1025	Microsoft Computer Dictionary, 3 rd ed., 1997, excerpts (“Computer Dictionary”)
Exhibit 1026	Song Han <i>et al.</i> , <i>EIE: Efficient Inference Engine on Compressed Deep Neural Network</i> , arXiv:1602.01528v2 [cs.CV] (May 3, 2016) (“Han”)
Exhibit 1027	Vinay K. Chippa <i>et al.</i> , <i>Analysis and Characterization of Inherent Application Resilience for Approximate Computing</i> , DAC ’13: Proceedings of the 50 th Annual Design Automation Conference (2013) (“Chippa”)
Exhibit 1028	Pakorn Watanachaturaporn <i>et al.</i> , <i>Hyperspectral Image Classification Using Support Vector Machines: A Comparison with Decision Tree and Neural Network Classifiers</i> , ASPRS 2005 Annual Conference (2005) (“Watanachaturaporn”)
Exhibit 1029	Wei Wen <i>et al.</i> , <i>An EDA Framework for Large Scale Hybrid Neuromorphic Computing Systems</i> , DAC ’15: Proceedings of the 52 nd Annual Design Automation Conference (2015) (“Wen”)
Exhibit 1030	<i>Intentionally left blank</i>

Exhibit 1031	Yann LeCun <i>et al.</i> , <i>Deep learning</i> , Nature Vol. 521 (May 28, 2015) (“ <i>LeCun 2</i> ”)
Exhibit 1032	Ahmed AK Tahir, <i>Integrating artificial neural network and classical methods for unsupervised classification of optical remote sensing data</i> , EURASIP Journal on Advances in Signal Processing (2012) (“ <i>Tahir</i> ”)
Exhibit 1033	Petitioner CrowdStrike, Inc.’s Notice of Sotera Plus Stipulation
Exhibit 1034	Examiner Guo Xilin Patent Examination Statistics
Exhibit 1035	USPTO Launches Data-Driven Quality Initiative to Address Areas of Highest Deviation (Nov. 21, 2025)
Exhibit 1036	Fortinet Inc. Docket Navigator Trial Timeline Milestones
Exhibit 1037	<i>Datanet LLC v. Dropbox Inc.</i> , No. 6:22-cv-01142-OLG-DTG, (W.D. Tex. Dec. 28, 2023) (Order Denying Motion to Stay)
Exhibit 1038	<i>VOIP-PAL.com, Inc. v. Samsung Elecs. Co., Ltd.</i> , No. 6:21-cv-01246 (W.D. Tex. April 19, 2023) (Text Order Granting Motion to Stay)
Exhibit 1039	<i>VOIP-PAL.com, Inc. v. Samsung Elecs. Co., Ltd.</i> , No. 6:21-cv-01246, Dkt. 46 (W.D. Tex. Feb. 27, 2023)
Exhibit 1040	U.S. District Courts Median Time to Trial During 12-Month Period Ending June 30, 2025
Exhibit 1041	<i>Chrimar Systems, Inc. v. ADTRAN, Inc., et al.</i> , No. 6:15-cv-00618, (E.D. Tex. Oct. 28, 2015) (Order Consolidating Case)
Exhibit 1042	<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 1043	Docket Navigator Page Showing Success Rate of Motions to Transfer for Judge Gilliland
Exhibit 1044	<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 1045	<i>Parus Holdings, Inc. v. Apple Inc.</i> , No. 6:21-cv-00968-ADA, ECF No. 94
Exhibit 1046	<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 1047	<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 1048	<i>Motorola Solutions, Inc., v. Stellar, LLC</i> , IPR2024-01205, EX1043 (Petitioner’s <i>Sotera</i> Stipulation)

CERTIFICATE OF SERVICE ON PATENT OWNER

Pursuant to 37 C.F.R. § 42.6(e), the undersigned certifies that on January 15, 2026, the foregoing *Petitioner's Corrected Opposition To Patent Owner's Request For Discretionary Denial* were served via electronic filing with the Board and via Electronic Mail on the following counsel of record for PO:

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