

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. IPR2025-01400
U.S. Patent No. 10,574,721

**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 three arguments, none of which are supported by evidence. **First**, PO insists the Petition presents references and arguments that are cumulative of those the Office has already considered. But PO entirely fails to address Petitioner's combination that proposes three never-before considered prior art references, wrestling with each reference individually and failing to appreciate the teachings of Petitioner's combination as a whole that teach the claimed daemon-based functions that led to allowance of the challenged patent. Instead, PO presents single-sentence comparisons of the individual references to prosecution prior art. PO provides no factual basis for the Director to ascertain whether Petitioner's *combination* overlaps with prosecution art and arguments. Accordingly, Part I of *Advanced Bionics* fails. But even if the IPR art were cumulative, the Examiner erred by not rejecting the claims based on the cited *Korycki* reference. As the Petition establishes, *Korycki's* daemon is compatible with the claimed functions. Accordingly, it was error to have issued the claims without a *Korycki*-based rejection.

Second, PO claims the '721 Patent deserves special treatment because it was allegedly funded by the National Science Foundation. The record does not support this claim. Instead, the cited grant shows the inventor was focused on "updates of *scientific workflows*[".] It does not discuss anything related to the '721 Patent's

subject matter. EX1054. Even if PO were correct that the '721 Patent technology serves national interests, PO is actively stifling those interests by asserting an invalid patent while failing to commercialize the technology. This hinders progress of CrowdStrike—a U.S.-based company whose platform actively advances America's cybersecurity interests.

Third, PO highlights speculative litigation timelines. Even a cursory review of the underlying facts shows that such timelines disfavor discretionary denial. The current 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 even occurs, significantly prolonging the early stages of litigation. Knowing this, PO points to the litigation timeline 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. EX1055 (Fortinet's Docket Navigator Page). Given the speculative and likely incorrect trial expectations, the proper place for adjudication is with the PTAB.

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

A. The Proposed Grounds Are Not Cumulative and Provide the Precise Teachings Missing from the Art of Record

PO asserts that “the references are cumulative to art already considered and overcome during prosecution.” Paper 7 at 15; *id.* at 1 (arguing the alleged rehash is the first allegedly “strong cause for discretionary denial”). PO’s argument suffers two fatal flaws. First, it fails to grapple with the proposed combination of references, focusing instead on the references in isolation. Second, even if *Fages*, *Jai*, and *Hayden* were cumulative of *Loesch* and *Bauer* as PO insists (they are not), the Examiner erred by failing to issue a rejection using *Korycki*.

First, PO makes no meaningful attempt to demonstrate that the proposed combination is cumulative of the art and arguments considered during prosecution. Instead, PO merely identifies high-level similarities between the IPR references and cited references:

The Petition’s primary references, *Fages*, *Korycki*, *Jai*, and *Hayden*, are cumulative to *Loesch* and *Bauer*. [1] *Fages* teaches parallel browser execution environments and launching a second environment for sensitive URLs, similar to *Loesch*’s private browser for trusted sites, but does not overcome the distinguishing daemon implementation. Pet., 49-50. [2] *Korycki* uses a daemon and browser extension for Active Control List (ACL) enforcement, akin to *Loesch*’s agent program, but lacks the specific confirmation and launching logic that distinguished the claims, *compare* EX1002, 370 with *Korycki*, 10:22-11:5 and Pet., 36-37; moreover, *Korycki* was already before the Office, EX1002, 380. [3] *Jai* checks for duplicate open applications to avoid redundancy, cumulative to *Bauer*’s check for active private mode. EX1002, 371. [4]

Hayden determines whether a browser instance is launched and starts one if not, similar to *Loesch/Bauer*'s instance management without the claimed daemon-extension-native application chain. EX1002, 370-71.

Id. at 16. PO proffers a single sentence for each invalidating prior art reference as the entirety of its support for Part 1 of the *Advanced Bionics* framework. *Id.* at 16-17 (arguing this analysis supports concluding “the same or substantially the same prior art was previously presented to the Office”). Without meaningfully comparing the teachings of Petitioner’s IPR combination with prosecution art, PO fails its burden to establish cumulateness under *Advanced Bionics*.

Regardless, the Examiner materially erred by failing to appreciate that cited reference *Korycki* teaches the daemon found lacking in the art of record. Responsive to the last Office Action, Applicant amended the claims and added limitations clarifying how the system confirms that the URL is not being accessed by another separate already-running browser instance using a well-known daemon. EX1002, 363-364. Specifically, Applicant added “implementing a daemon[,]” “receiving the request[,]” “forwarding the request[,]” and “confirming, via the daemon that the web content is not associated with the first web content class and that another browser instance is not already launched[.]” *Id.* Applicant relied on this “[u]se of the daemon” to overcome the art of record. *Id.* at 370. The Examiner agreed, noting these amendments overcame *Loesch/Bauer* which were previously relied upon. *Id.* at 378.

But *Korycki* was part of the prosecution file and teaches a daemon implemented in an architecture compatible with *Loesch/Bauer*. Even if *Fages-Jai-Hayden* are cumulative of *Loesch/Bauer*, as PO argues, the Examiner materially erred by overlooking *Korycki*'s daemon-implemented process. Had the Examiner realized this during examination, it would have issued a *Loesch-Bauer-Korycki* rejection. Failing to do so and overlooking *Korycki* was material error that led to the issuance of the '721 Patent. Accordingly, the USPTO should review the Petition's proposed combination to remedy this error.

B. PO has not Developed Settled Expectations in the '721 Patent

PO "has not developed strong settled expectations" that the '721 Patent would not be challenged because the '721 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 '721 Patent issued less than 6 years ago: February 25, 2020. 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 '721 Patent has been in force for less than six years, PO nonetheless argues it has settled expectations in the '721 Patent's validity because it "is part of a mature cybersecurity portfolio...dating back to 2014." Paper 7 at 14. Critically, this alleged "portfolio" consists of legally unrelated patents, which PO seeks to treat collectively by characterizing them as "cybersecurity innovations[.]" Paper 7 at 14. This attempted bundling falls flat. Notably, the '721 Patent does not share inventors with *any* of the additional Asserted Patents. Compare EX2001, ¶28, with *id.*, ¶¶23, 33, 38, and 43. Furthermore, 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” 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 14-15. But Skysong was not even assigned the ’721 Patent until February 20, 2025—a full **20 days after** PO sued both CrowdStrike and Fortinet. EX1056. And PO presents no evidence that it, or its predecessor, ASU, has “invest[ed] in commercialization” of the ’721 Patent’s claimed invention. Indeed, PO has not identified any purported commercial embodiments of the ’721 Patent’s claimed invention, and Skysong’s website states it focuses on **licensing**, not

commercialization.¹ Failing to commercialize “weighs against [a] Patent Owner’s claim of strong settled expectations.” *Shenzen Tuozhu 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. EX 1057, 9-10. Here, because Petitioner will seek a stay only *after* the IPR is instituted, the *Datanet* decision is inapposite.

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. EX1058, *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

¹ See <https://skysonginnovations.com/industry/>.

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.” EX2003 at 2 (noting that fact discovery opens on February 19, 2026). 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. EX1059, 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 11 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 under 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. EX1060, 2. Applying that time period to the Parallel Litigation, trial is likely to begin in February 2028—approximately ***11 months after*** a final written decision is expected. 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).

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. EX1055. And that was a consolidated jury trial with 33 different defendants lumped into a single suit. EX1061. 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). EX1062 (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. EX1063 (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. EX1062 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* EX1064, *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[y]ing several non-party witnesses in NDCA”), *with* EX1062 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. EX1062 at 11, *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. EX1065, *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. EX1066, *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. While preliminary contentions have been served, PO incorrectly alleges initial disclosures have been exchanged. This will not actually occur until a day before the anticipated institution decision. Further, 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)). As laid out above, 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, thereby 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.com*, Dkt. 46 (EX1058) (Motion to Stay, filed February 27, 2023), Text Order (EX1067) (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

To mitigate overlap between the issues in this proceeding and the parallel litigation, CrowdStrike filed a broadened *Sotera+* stipulation. EX1053. If IPR is instituted, the parallel litigation will not address:

(i) the specific grounds raised in IPR2025-01400, (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 IPR2025-01400, as reflected in the table summarizing the Statutory Grounds for Challenges on page 4 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 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. PO cites to CrowdStrike's preservation of prior art references in its invalidity contentions in the parallel litigation. Such an argument lacks merit. *Fintiv* stipulations, by their very nature, are conditional. The IPR art is preserved in the parallel litigation *until* review is instituted. When instituted, Petitioner's *Sotera+* stipulation will negate *any* overlap. Notably, PO cites no authority for the proposition that Petitioner's stipulation approach is improper. And PO's legally unsupported complaints are illogical. PO suggests it is disadvantaged because "invalidity contentions and claim-construction briefs will already be complete before institution." Paper 7, 13. But invalidity contentions have already been served, and any claim construction issues relevant to these references will have already been addressed in the POPR before Petitioner files its responsive claim construction brief. EX2003, 1-2. Accordingly, the *Sotera+* stipulation mitigates any overlap concerns.

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 (EX1068). 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*, Sections 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 17-18. 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 9-76; 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, 24-35; EX1003, ¶¶192-224. 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 ’721 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.” EX2007, § 1. The continued enforcement of the ’721 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 '721 Patent's alleged invention. As a threshold matter, to serve as a national security interest, the '721 Patent's alleged invention needs to be commercialized. Without implementation, no national security interest is furthered. On the contrary, preventing domestic companies from protecting computer systems by asserting an invalid patent is directly contrary to express national security interests. Moreover, PO makes unsupported assertions that the '721 Patent was partially funded by the National Science Foundation. A cursory read of the grant proves otherwise. EX1054. The grant has *no* apparent relation to the '721 Patent.

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. 10,574,721 (“’721 Patent”)
Exhibit 1002	File History of the ’721 Patent (“’721 File History”)
Exhibit 1003	Declaration of Erez Zadok, Ph.D. (“Dec.”)
Exhibit 1004	U.S. Patent Application Publication No. 2012/0069401 to Fages et al. (“Fages”)
Exhibit 1005	U.S. Patent No. 9,009,853 to Korycki et al. (“Korycki”)
Exhibit 1006	International Publication No. WO 02/37333 to Jai (“Jai”)
Exhibit 1007	U.S. Patent Application Publication No. 2014/0137184 to Russello et al. (“Russello”)
Exhibit 1008	U.S. Patent No. 8,424,017 to O’Niell et al. (“O’Niell”)
Exhibit 1009	U.S. Patent Application Publication No. 2003/0061257 to Cardona (“Cardona”)
Exhibit 1010	U.S. Patent No. 7,493,414 to Tazuma (“Tazuma”)
Exhibit 1011	<i>Curriculum vitae</i> of Erez Zadok, Ph.D.
Exhibit 1012	<i>Dictionary of Computer and Internet Terms</i> . 10 th Edition. Barron’s Educational Series, Inc. (2009). (“Barron’s”)
Exhibit 1013	<i>PC Basics Get a Great Start</i> . Gateway, Inc. (2002). (“Gateway”)
Exhibit 1014	Dell, Inc. <i>Dell PowerEdge R620</i> . (2012). (“Dell”)
Exhibit 1015	U.S. Patent No. 7,689,666 to Commons (“Commons”)
Exhibit 1016	U.S. Patent No. 5,787,254 to Maddalozzo, Jr. et al. (“Maddalozzo, Jr.”)
Exhibit 1017	Google Chrome Team. <i>20 Things I Learned About Browsers and the Web</i> . (2010). Available at: https://web.archive.org/web/20120127221853/https://dusk.geo.orst.edu/gis/Google_Book_20Things.pdf (“Google Team”)
Exhibit 1018	U.S. Patent No. 8,914,813 to Sigurdsson et al. (“Sigurdsson”)
Exhibit 1019	U.S. Patent No. 8,990,710 to Warner et al. (“Warner”)
Exhibit 1020	US-CERT. <i>Banking Securely Online</i> . (2008). (“US-CERT”)
Exhibit 1021	Pope, M.B. et al. <i>The Domain Name System—Past, Present, and Future</i> . Communications of the Association for Information Systems: Vol. 30, Article 21. (2012). Available at: http://aisel.aisnet.org/cais/vol30/iss1/21 (“Pope”)
Exhibit 1022	Microsoft Press. <i>Microsoft Exchange 2000 Server Resource Kit</i> . Pgs. 1-62. (2000). (“Microsoft Exchange”)
Exhibit 1023	<i>Processes: A Brief Introduction</i> . (2006). Available at: https://www.linfo.org/process.html (retrieved August 13, 2025). (“Linux Information Project”)

Exhibit 1024	Bradford Nichols, et. al. <i>Pthreads Programming: A POSIX Standard for Better Multiprocessing</i> . O'Reilly & Associates, Inc. (1996) (“ <i>O’Reilly</i> ”)
Exhibit 1025	Devin Watson. <i>Linux Daemon Writing HOWTO</i> . (2004). Available at: https://homes.cs.aau.dk/~adavid/teaching/MTP-05/exercises/10/Linux-Daemon_Writing.pdf . Accessed via the Web Archive at https://web.archive.org/web/20120217144006/https://www.netzmafia.de/skripten/unix/linux-daemon-howto.html (“ <i>Watson</i> ”)
Exhibit 1026	U.S. Patent No. 6,845,505 to Adunuthula et al. (“ <i>Adunuthula</i> ”)
Exhibit 1027	U.S. Patent No. 8,230,399 to Vertes (“ <i>Vertes</i> ”)
Exhibit 1028	U.S. Patent Application Publication No. 2014/0052683 to Kirkham et al. (“ <i>Kirkham</i> ”)
Exhibit 1029	IBM Software Thought Leadership Whitepaper. <i>Native, web or hybrid mobile-app development</i> . (2012). Available at: https://public.dhe.ibm.com/software/sk/websphere/pdf/Native_Web_or_Hybrid_Mobile_Development.pdf (“ <i>IBM</i> ”)
Exhibit 1030	Oracle Corporation. <i>DNS Basics</i> . Solaris Naming Administration Guide. (2010). Available at: https://docs.oracle.com/cd/E19455-01/806-1387/6jam692f2/index.html (retrieved August 20, 2025). (“ <i>Oracle – DNS</i> ”)
Exhibit 1031	Martin Robillard. <i>What Makes APIs Hard to Learn? Answers from Developers</i> . IEEE Software. (November/December 2009). (“ <i>Robillard</i> ”)
Exhibit 1032	Larry L.P. and Bruce S.D. <i>In The Morgan Kaufmann Series in Networking, Computer Networks</i> . 5 th Edition. (2012). Pgs. 1-69. (“ <i>Computer Networks</i> ”)
Exhibit 1033	Alok Sinha. <i>Client Server Computing Time Shared Computing</i> . Communications of the ACM. Vol. 35, No. 7. (1992). (“ <i>Sinha</i> ”)
Exhibit 1034	Paul Clark. <i>Introduction to Linux on IBM Power Systems</i> . IBM. (2021). Available at: https://developer.ibm.com/articles/intro-to-lop/ (retrieved August 18, 2025). (“ <i>Clarke</i> ”)
Exhibit 1035	Stephen G.K. <i>Programing in C</i> . 3 rd Edition. Sams Publishing. (2005). (“ <i>Kochan</i> ”)
Exhibit 1036	The Bell System Technical Journal. Vol. 57, No. 6, Part 2. Pgs. 1897-1094, 2807-2101. (“ <i>The Bell System Technical Journal</i> ”)
Exhibit 1037	<i>Sockets Tutorial</i> . (2007). Available at: https://web.archive.org/web/20070120054454/https://www.linuxho

	wtos.org/C_C++/socket.htm (retrieved August 19, 2025). (“ <i>linuxhowtos</i> ”)
Exhibit 1038	U.S. Patent Application Publication No. 2012/0317363 to Uola et al. (“ <i>Uola</i> ”)
Exhibit 1039	Scott M.L. <i>Interprocess Communication in Unix and Windows NT</i> . Department of Computer Science, Brown University. (1997). Available at: https://cs.brown.edu/people/slewando/files/IPCWinNTUNIX.pdf (“ <i>Lewandowski</i> ”)
Exhibit 1040	Oracle Corporation. <i>Appendix A Union Domain Sockets</i> . Network Interface Guide. (2010). Available at: https://docs.oracle.com/cd/E19455-01/806-1017/6jab5di3d/index.html#:~:text=UNIX%20domain%20sockets%20communicate%20only,properties%20visible%20to%20a%20user (retrieved August 20, 2025) (“ <i>Oracle – UNIX Domain Sockets</i> ”)
Exhibit 1041	NoMachine. <i>NoMachine 4 Release Announcement</i> . (September 25, 2013). Available at: https://kb.nomachine.com/SU10K00101?s=nx+protocol (retrieved August 20, 2025)
Exhibit 1042	NoMachine. <i>Using NX Client on a Linux desktop</i> . (February 5, 2012). Available at: https://web.archive.org/web/20120205022257/http://www.nomachine.com/screenshot/linux-client.php (retrieved August 20, 2025)
Exhibit 1043	NoMachine. <i>Article #AR10B00012</i> . (January 12, 2010). Available at: https://web.archive.org/web/20120114040432/http://www.nomachine.com/ar/view.php?ar_id=AR10B00012 (retrieved August 20, 2025)
Exhibit 1044	U.S. Patent Application Publication No. 2012/0023207 to Palchenko (“ <i>Palchenko</i> ”)
Exhibit 1045	Richard Peterson. <i>Linux: The Complete Reference Fourth Edition</i> . The McGraw-Hill Companies. (2001).
Exhibit 1046	U.S. Patent Application Publication No. 2007/0136579 to Levy et al. (“ <i>Levy</i> ”)
Exhibit 1047	Conny Franke et al. “Isolated Web Browsing Enforcing OS-like Isolation for Browsers.” December 16, 2005. https://www.researchgate.net/publication/277288272_Isolated_Web_Browsing_Enforcing_OS-like_Isolation_for_Browsers (“ <i>Franke</i> ”)
Exhibit 1048	U.S. Patent Application Publication No. 2010/0218106 to Chen et al. (“ <i>Chen</i> ”)

Exhibit 1049	Mohsen Zohrevandi et al. “Auto-FBI: A User-friendly Approach for Secure Access to Sensitive Content on the Web.” ACSAC ’13. December 9-13, 2013. New Orleans, LA. (“ <i>Auto-FBI</i> ”)
Exhibit 1050	U.S. Patent No. 9,509,783 to Hayden (“ <i>Hayden</i> ”)
Exhibit 1051	U.S. Patent No. 9,015,226 to Sullivan et al. (“ <i>Sullivan</i> ”)
Exhibit 1052	U.S. Patent Application Publication No. 2005/0283767 to Blaku (“ <i>Blaku</i> ”)
Exhibit 1053	Petitioner CrowdStrike, Inc.’s Notice of Sotera Plus Stipulation
Exhibit 1054	NSF Grant No. 0849980 for Live Updates of Scientific Workflows
Exhibit 1055	Fortinet Inc. Docket Navigator Trial Timeline Milestones
Exhibit 1056	’721 Patent Assignment to Skysong Innovations, LLC (Executed February 20, 2025)
Exhibit 1057	<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 1058	<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 1059	Standing Order Governing Proceedings (OGP) 4.4 – Patent Cases, Western District of Texas Waco Division
Exhibit 1060	U.S. District Courts Median Time to Trial During 12-Month Period Ending June 30, 2025
Exhibit 1061	<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 1062	<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 1063	Docket Navigator Page Showing Success Rate of Motions to Transfer for Judge Gilliland
Exhibit 1064	<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 1065	<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 1066	<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 1067	<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 1068	<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 December 23, 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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