1
2
3
4
5
6 IN THE UNITED STATES DISTRICT COURT
7
8 FOR THE NORTHERN DISTRICT OF CALIFORNIA
9
10 FINJAN, INC.,
11 Plaintiff, No. C 17-05659 WHA
12 v.
13 JUNIPER NETWORKS, INC.,
14 Defendant.
15 ________________________________/

ORDER GRANTING EARLY MOTION FOR SUMMARY JUDGMENT ON '780 PATENT

16 **INTRODUCTION**

17 In this patent infringement action, each side moves for early summary judgment on one
18 asserted claim (of many) among many patents-in-suit. For the reasons stated below, accused
19 infringer's motion for summary judgment of non-infringement is **GRANTED**. A separate order
20 will address the cross motion.

21 **STATEMENT**

22 The patents at issue relate to malware detection. They relate specifically to protecting
23 against potentially malicious "downloadables" — executables (such as Java applets and
24 JavaScript) that may be used to deliver malicious code without the user's knowledge.

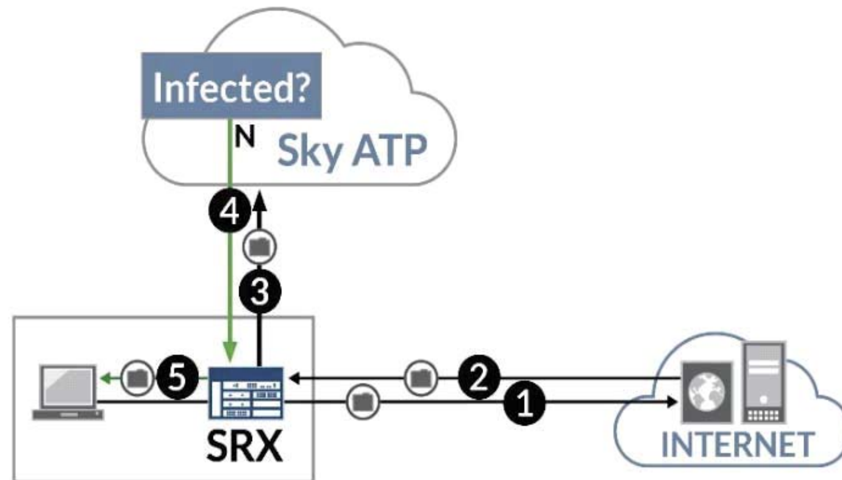
25 **1. THE '780 PATENT.**

26 United States Patent No. 6,804,780 (the '780 patent) describes the generation of an ID for
27 a downloadable ("Downloadable ID") in order to match it against previously encountered
28 suspect downloadables. This saves the malware-protection system from going through an

DOCKET ALARM
Find authenticated court documents without watermarks at docketalarm.com.

intensive anti-malware analysis every time that downloadable attempts to enter the user's system. When an unrecognized "Downloadable" knocks on the door, the patented invention is to fetch the components called out by the incoming file, then run a hashing function across the combined code. This creates a Downloadable ID.

2. OVERVIEW OF ACCUSED PRODUCTS.



A. The SRX.

Juniper's SRX Gateways are network appliances and software that act as firewalls to protect a computer on a network from receiving malicious content. Once the SRX intercepts an incoming file, it determines whether it is a Downloadable type that should be analyzed (such as HTML, Microsoft documents, EXE files). If so, it then sends the entire file to the cloud-based Sky ATP for analysis (Rubin Decl. ¶ 64; Opp. 4).

B. Sky ATP.

Sky ATP is a cloud-based scanning system that inspects files with its "Malware Analysis Pipeline" to determine the threat level posed by the Downloadable. The Downloadables of concern here are what the parties call "dropper" files (a term not explicitly mentioned in the specification) that, while executing, surreptitiously attempt to install separate malware, *i.e.*, a "dropped" file (Br. 22; Rubin Decl. ¶ 76).

United States District Court
For the Northern District of California

DOCKET ALARM
Find authenticated court documents without watermarks at docketalarm.com.

United States District Court
For the Northern District of California

The Malware Analysis Pipeline in Sky ATP scans an unrecognized Downloadable using (1) a conventional antivirus check; (2) static analysis; and (3) dynamic analysis. Static analysis involves analyzing the Downloadable's contents without actually running the file. Dynamic analysis, on the other hand, analyzes the Downloadable's contents by executing and observing the file in a safe, simulated environment called a "sandbox." This multi-stage pipeline analysis renders a "verdict," *i.e.* how dangerous the file is, which is returned to the SRX the next time it encounters the Downloadable (Br. 18; Rubin Decl. ¶ 66).

3. JUNIPER'S MOTION ON CLAIM 1 OF THE '780 PATENT.

According to Finjan, Juniper infringes Claim 1 because the SRX obtains Downloadables with references to "dropped" software components. The Downloadable is submitted to Sky ATP, which dynamically analyzes the Downloadable. During this analysis, Sky ATP allegedly fetches referenced dropped components and creates a Downloadable ID, which includes a hash of the Downloadable together with its dropped software components (Opp. 1).

Juniper now moves for summary judgment of non-infringement, arguing that the SRX and Sky ATP products do not infringe Claim 1. Discovery relating to this round of early summary judgment was taken. Both sides understand how the accused system works. This order follows full briefing and oral argument.

ANALYSIS

1. LEGAL STANDARD.

Summary judgment is proper when there is no genuine dispute of material fact and the moving party is entitled to judgment as a matter of law. FRCP 56(a). A genuine dispute of material fact is one that "might affect the outcome of the suit under the governing law." *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 247–48 (1986). In deciding a motion for summary judgment, the court must accept the non-movant's non-conclusory evidence and draw all justifiable inferences in its favor. *Id.* at 255.

2. INFRINGEMENT (OR NON-INFRINGEMENT).

Claim 1 states ('780 patent at 10:23–32):

> A computer-based method for generating a Downloadable ID to identify a Downloadable, comprising:

DOCKET ALARM
Find authenticated court documents without watermarks at docketalarm.com.

United States District Court
For the Northern District of California

> obtaining a Downloadable that includes one or more references to *software components required to be executed by the Downloadable*;
>
> fetching at least one software component identified by the one or more references; and
>
> *performing a hashing function on the Downloadable and the fetched software components* to generate a Downloadable ID.

The contested terms are italicized. Figure 8 of the '780 patent illustrates this process:

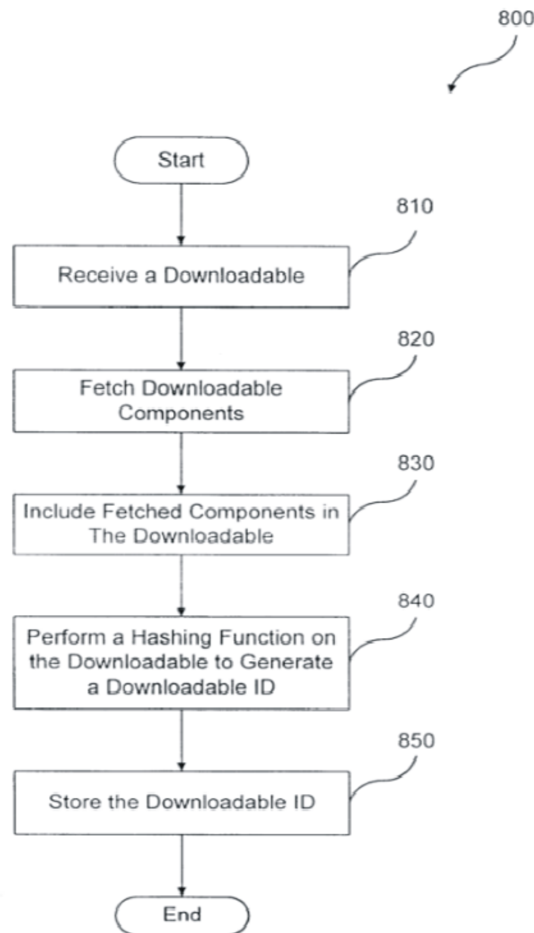


FIG. 8

Juniper argues it is entitled to summary judgment of non-infringement as to Claim 1 of the '780 patent because the SRX with Sky ATP do not hash incoming files "together with" fetched components to generate a single Downloadable ID (Br. 22–23).

DOCKET ALARM
Find authenticated court documents without watermarks at docketalarm.com.

United States District Court
For the Northern District of California

To determine whether summary judgment of non-infringement (or infringement) is warranted, this order must first construe Claim 1 to determine its scope and then determine whether the properly construed Claim 1 reads on Juniper's accused products. *See Pitney Bowes, Inc. v. Hewlett-Packard Co.*, 182 F.3d 1298, 1304 (Fed. Cir. 1999).

Claim terms "are generally given their ordinary and customary meaning," *i.e.*, "the meaning that the term would have to a person of ordinary skill in the art in question at the time of the invention." *Phillips v. AWH Corp.*, 415 F.3d 1303, 1312–13 (Fed. Cir. 2005). To properly construe a claim, a court must examine the claim, the rest of the specification, and, if in evidence, the prosecution history. *Amgen Inc. v. Hoechst Marion Roussel, Inc.*, 314 F.3d 1313, 1324 (Fed. Cir. 2003). When legal "experts" offer views on claim construction that conflict with each other or with the patent itself, such conflict does not create a question of fact or relieve the court of its obligation to construe the claim according to the tenor of the patent. *Markman v. Westview Instruments, Inc.*, 52 F.3d 967, 983 (Fed. Cir. 1995).

Here, the parties dispute the following terms:[1]

CLAIM TERM	FINJAN	JUNIPER
software components required to be executed by the Downloadable	plain and ordinary meaning (software components referenced by a Downloadable for execution)	software components that are needed to execute the Downloadable
performing a hashing function on the Downloadable and the fetched software components to generate a Downloadable ID	plain and ordinary meaning (performing a hashing function on the Downloadable together with its fetched software components to generate a Downloadable ID)	performing a hashing function on the Downloadable together with its fetched software components to generate a single hash value that identifies the contents of both the Downloadable and the fetched components

[1] Juniper originally also disputed the term "fetching at least one software component identified by the one or more references," but stated in its reply that "the Court need not construe this term for purposes of this Motion" (Reply 3).

DOCKET ALARM
Find authenticated court documents without watermarks at docketalarm.com.

DOCKET ALARM

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts

Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research

With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips

Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.

WHAT WILL YOU BUILD? | **sales@docketalarm.com** | **1-866-77-FASTCASE**

fastcase®
Smarter legal research.