

EXHIBIT D

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571-272-7822

Paper 57
Entered: January 24, 2019

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ESET, LLC and ESET spol s.r.o.,
Petitioner,

v.

FINJAN, INC,
Patent Owner.

Case IPR2017-01738
Patent 7,975,305 B2

Before THOMAS L. GIANNETTI, PATRICK M. BOUCHER, and
ZHENYU YANG, *Administrative Patent Judges*.

BOUCHER, *Administrative Patent Judge*.

FINAL WRITTEN DECISION
35 U.S.C. § 318(a) and 37 C.F.R. § 42.73

IPR2017-01738
Patent 7,975,305 B2

In response to a Petition (Paper 2, “Pet.”) filed by ESET, LLC, and ESET spol s.r.o. (collectively, “Petitioner”), we instituted an *inter partes* review of claims 1–25 of U.S. Patent No. 7,975,305 B2 (“the ’305 patent”). Paper 10 (“Dec.”); Paper 19. During the trial, Finjan, Inc. (“Patent Owner”) filed a Response (Paper 31¹, “PO Resp.”) to which Petitioner filed a Reply (Paper 37, “Reply”) and Patent Owner filed a Sur-Reply (Paper 49, “Sur-Reply”).² Both parties filed Motions to Exclude evidence filed by the other side, with subsequent responsive briefing. Papers 46, 47, 51, 52, 54, 55. An oral hearing was held with the parties, and a copy of the transcript was entered into the record. Paper 56 (“Tr.”).

We have jurisdiction under 35 U.S.C. § 6. This Decision is a Final Written Decision under 35 U.S.C. § 318(a) as to the patentability of the claims on which we instituted trial. Based on the record before us, Petitioner has not shown, by a preponderance of the evidence, that any claim of the ’305 patent is unpatentable.

¹ Paper 31 is a redacted version of Patent Owner’s complete Response, filed with restricted access as Paper 30. We do not rely on the redacted portions of the Response in this Decision, and therefore cite to the publicly available version.

² Filing of the Sur-Reply was authorized in accordance with the Board’s 2018 Revised Trial Practice Guide. Paper 44. We denied Petitioner’s request to file a Sur-Sur-Reply because the “filing of a Sur-Sur-Reply is not contemplated by the revisions to the Practice Guide.” Paper 50, 3.

IPR2017-01738
 Patent 7,975,305 B2

I. BACKGROUND

A. The '305 Patent

1. Disclosure

The '305 patent relates to network security, including scanning of mobile content for exploits through “behavioral analysis,” in which incoming content is analyzed in terms of its programmatic behavior— “[a]s distinct from prior art approaches that search for byte patterns.” Ex. 1001, 1:24–25, 1:64–67. “Exploits” are “[p]ortions of code that are malicious”; the '305 patent provides an example that uses JavaScript to create a window that fills an entire screen, leaving the user unable to access any underlying windows. *Id.* at 5:65–6:3.

Figure 2 of the '305 patent is reproduced below.

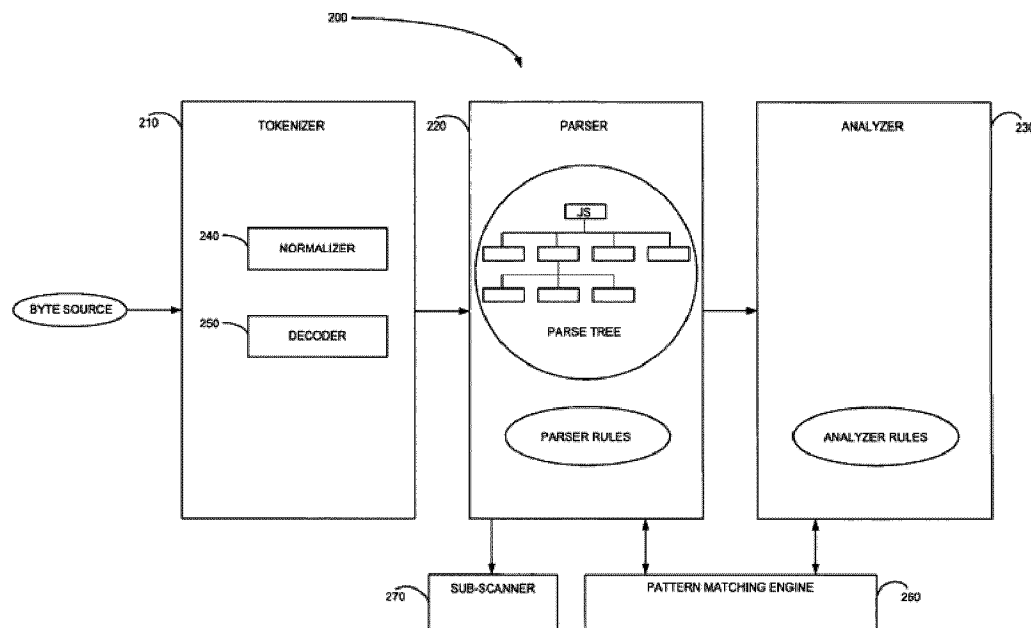


FIG. 2

IPR2017-01738
Patent 7,975,305 B2

Figure 2 provides a simplified block diagram of an adaptive rule-based content scanner system, which is “able to adapt itself dynamically to scan a specific type of content, such as inter alia JavaScript, VBScript, URI, URL and HTML.” *Id.* at 6:14–17, 2:10–14. The ’305 patent explains that the adaptive rule-based scanner of Figure 2 “is preferably designed as a generic architecture that is language-independent, and is customized for a specific language through use of a set of language-specific rules.” *Id.* at 8:43–46. In addition, “security violations, referred to as exploits, are described using a generic syntax, which is also language-independent.” *Id.* at 8:54–56.

Adaptive rule-based scanner 200 includes three main components: (1) tokenizer 210, which recognizes and identifies constructs (i.e., “tokens”) within a byte source code; (2) parser 220, which controls the process of scanning incoming content, such as with a parse tree data structure that represents the incoming content; and (3) analyzer 230, which checks for exploits by searching for specific patterns of content that indicate an exploit. *Id.* at 9:9–14, 10:45–55, 2:54–57. Sub-scanner 270 is another adaptive rule-based scanner used to scan a subsection of input being processed by scanner 200. *Id.* at 12:43–44. Pattern matching engine 260 performs pattern matching for both parser 220 and analyzer 230, such as by accepting an input list of regular-expression elements describing a pattern of interest and an input list of nodes from the parse tree to be matched against the pattern of interest, and outputting a Boolean flag indicating whether a pattern is matched. *Id.* at 13:13–29.

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