#### UNITED STATES DISTRICT COURT EASTERN DISTRICT OF VIRGINIA RICHMOND DIVISION

## THE TRUSTEES OF COLUMBIA UNIVERSITY IN THE CITY OF NEW YORK,

Plaintiff,

v.

DOCKE

RM

Action No. 3:13-CV-808

SYMANTEC CORPORATION,

Defendant.

# **CLAIM CONSTRUCTION ORDER**

Pursuant to the directions of Markman v. Westview Instruments, Inc., 517 U.S. 370

(1996), the Court hereby construes the following disputed terms of the allegedly infringed

patents in the above referenced case:

## I. First Family of Patents ('544 and '907)

- 1. "Byte Sequence Feature": Feature that is a representation of machine code instructions of the executable. "Feature" is a property or attribute of data which may take on a set of values.
- 2. "Email Interface": The component that reintegrates filtered email back into normal email traffic and may send the model generator 240 each attachment to be analyzed further.
- 3. "Wherein [the step of] extracting said byte sequence features from said executable attachment comprises creat[ing/e] a byte string representative of resources referenced by said executable attachment": Indefinite. The Court finds that the "resource information" feature extraction embodiment is separate and distinct from the "byte sequence feature" extraction embodiment. Because Claims 1 and 16 of the '544 patent conflate these terms, and thus are inconsistent with the specification, the Court holds that this term is indefinite. *See Allen Eng'g Corp. v. Bartell Indus., Inc.,* 299 F.3d 1336, 1349 (Fed. Cir. 2002).

## II. Second Family of Patents ('084 and '306)

1. "Operating System Registry": A database of information about a computer's configuration, utilized by an operating system, organized hierarchically as a tree, with entries consisting of keys and values.

2. "Probabilistic Model of Normal Computer System Usage": Model of typical attackfree computer system usage that employs probability. "Probability" is the likelihood that an event will occur or a condition will be present.

"Normal Computer System Usage": Typical, attack-free computer system usage.

3. "Anomaly" / "Anomalous": Deviation/deviating from a model of typical, attack-free computer system usage.

#### III. Third Family of Patents ('115 and '322)

- 1. "Anomalous": Deviation/deviating from a model of typical, attack-free computer system usage.
- 2. "Emulator": Software, alone or in combination with hardware, that permits the monitoring and selective execution of certain parts, or all, of a program.
- 3. "Application Community": Members of a community running the same program or a selected portion of the program.

Let the Clerk send a copy of this Order to all counsel of record.

It is SO ORDERED.

James R. Spencer Senior U. S. District Judge

ENTERED this <u>7th</u> day of October 2014.