

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SYMANTEC CORP.
Petitioner

v.

FINJAN, INC.
Patent Owner

Case: To Be Assigned
U.S. Patent No. 8,141,154

**Declaration of Sylvia Hall-Ellis in Support of
Petition for *Inter Partes* Review of U.S. Patent No. 8,141,154**

I, Sylvia Hall-Ellis, declare as follows:

1. I have been retained by Symantec Corporation ("Symantec") for the above-captioned *inter partes* review proceeding. I understand that this proceeding involves U.S. Patent No. 8,141,154 ("the '154 patent") entitled "System and Method for Inspecting Dynamically Generated Executable Code," and that the '154 patent is currently assigned to Finjan, Inc. I have personal knowledge of the facts set forth herein, and am competent to testify to the same.

2. I am currently the Director of Grants and Resource Development for the Colorado Community College System. I am also an Adjunct Professor in the School of Information at San José State University. I obtained a Masters of Library Sciences from the University of North Texas in 1972, and a Ph.D. in Library and Information Science from the University of Pittsburgh in 1985. I was first employed as a librarian in 1966, and have been involved in the field of library sciences since, holding numerous positions.

3. I have also given over one hundred presentations in the field, including several on library cataloging systems and MARC standards. My current research interests include library cataloging systems, metadata, and organization of electronic resources.

4. My full curriculum vitae is attached hereto as Symantec 1006. My rate is \$300 per hour for my work on these matters. All materials considered in conjunction with this report have been cited herein, including all exhibits attached hereto.

5. I am a member of the American Library Association (ALA) and its Association for Library Collections & Technical Services (ALCTS) Division, and I served on the Committee on Cataloging: Resource and Description (which wrote the new cataloging rules) and as the chair of the

Committee for Education and Training of Catalogers and the Competencies and Education for a Career in Cataloging Interest Group. I also served as the Chair of the ALCTS Division's Task Force on Competencies and Education for a Career in Cataloging. Additionally, I have served as the Chair for the ALA Office of Diversity's Committee on Diversity.

6. I am fully familiar with a library cataloging standard known as the "Machine Readable Cataloging" standard, also known as "MARC," which is an industry-wide standard method of organizing library catalog information. MARC was first developed in the 1960's by the Library of Congress. A MARC-compatible library is one that has a catalog consisting of individual MARC records for each of its works. Today, MARC is the primary communication protocol for the transfer and storage of bibliographic metadata in libraries.

7. When an Online Computer Library Center (OCLC) participating institution acquires a work, it creates a MARC record for this work in its computer catalog system and OCLC automatically supplies the date of creation. The MARC record creation date reflects the date on or shortly after the item was first acquired and catalogued. Once the MARC record is created by a cataloger at an OCLC participating member institution, it is

instantaneously available to any OCLC participating members, and, therefore, available to the public.

8. A MARC record comprises several fields, each of which contains specific data about the work. Each field is identified by a standardized, unique, three-digit code corresponding to the type of data that follow. For example, a work's title is recorded in field 245, the primary author of the work is recorded in field 100, an item's International Standard Book Number ("ISBN") is recorded in field 020, an item's Library of Congress call number is recorded in field 050, and the publication date is recorded in field 260 under the subfield "c." If a work is a periodical, then its publication frequency is recorded in field 310, and the publication dates (e.g., the first and last publication) are recorded in field 362, which is also referred to as the enumeration/chronology field. The library that created the record is recorded in field 040 in subfield "a" with a unique library code.¹ When viewing the MARC record online via Online Computer Library Center's ("OCLC") Connexion database, hovering over this code with the mouse reveals the name of the library. I used this method of "mousing over" the library codes in the OCLC database to identify the originating library for all

¹ For more information about MARC field 040, please refer to <http://www.oclc.org/bibformats/en/0xx/040.html>. The symbol in subfield "a" corresponds to the symbol for the institution inputting the original record. For a list of OCLC symbols and their corresponding institutions.

of the MARC records in this declaration. In the MARC records in the OCLC Connexion database, MARC field 040 contains the OCLC symbols of institutions transcribing, creating, and modifying the record.

9. OCLC was created “to establish, maintain and operate a computerized library network and to promote the evolution of library use, of libraries themselves, and of librarianship, and to provide processes and products for the benefit of library users and libraries, including such objectives as increasing availability of library resources to individual library patrons and reducing the rate of rise of library per-unit costs, all for the fundamental public purpose of furthering ease of access to and use of the ever-expanding body of worldwide scientific, literary and educational knowledge and information.”² Among other services, OCLC and its members are responsible for maintaining the WorldCat database (<http://www.worldcat.org/>), used by independent and institutional libraries throughout the world. OCLC is the international cooperative to which libraries catalog records and others pay to access MARC records. The MARC records extracted from the OCLC database were generated in the ordinary course of business, and were personally located and downloaded by myself.

10. OCLC also provides its members online access to MARC

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