

Filed on behalf of Symantec Corporation

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL  
AND APPEAL BOARD

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SYMANTEC CORPORATION

Petitioner

v.

FINJAN, INC

Patent Owner

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

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**DECLARATION OF JACK W. DAVIDSON IN SUPPORT OF  
PETITIONER PURSUANT TO 37 C.F.R. § 42.120**

Symantec 1010

**Declaration of Jack W. Davidson  
In Support of Petitioner Pursuant to 37 C.F.R. § 42.120**

I, Jack W. Davidson, declare as follows

**I. Overview**

1. I am over 21 years of age and otherwise competent to make this Declaration. I make this Declaration based upon facts and matters within my own knowledge and on information provided to me by others.

2. I have been retained as an expert witness to provide testimony on behalf of Symantec Corporation (“Symantec” or “Petitioner”) as part of the above-captioned inter partes review proceeding (“IPR”), including issues relating to the validity of U.S. patent number 8,141,154 (“the ‘154 patent”), entitled “System and method for inspecting dynamically generated executable code.” I also understand that the ‘154 patent was filed on December 12, 2005 and issued on March 20, 2012 and that the ‘154 patent is currently assigned to Finjan, Inc.

3. I have reviewed and am familiar with the specification and prosecution history of the ‘154 patent. A copy of the ‘154 patent is provided as Symantec 1001. As I explain in more detail below, I am familiar with the technology at issue as of the December 12, 2005 filing date of the ‘154 patent.

4. I have also reviewed and am familiar with the following prior art, which I understand is being used by Symantec in the Petition for *Inter Partes* Review of the '154 patent:

- a. U.S. Patent Application Publication 2007/0113282 by Robert F. Ross (“Ross,” provided as Symantec 1002);
- b. U.S. Patent Application Publication 2002/0066022 by Brad Calder et al. (“Calder,” provided as Symantec 1003);
- c. *Design and implementation of a distributed virtual machine for networked computers*, by Emin Gun Sirer et al., Association for Computing Machinery, December 1999. (“Sirer,” provided as Symantec 1004).
- d. U.S. Patent No. 8,220,055 to Mark K. Kennedy ( “Kennedy,” provided as Symantec 1009)

5. With its Petition and this supporting Declaration, I understand Symantec is requesting that the Patent Office institute a review of claims 1-12 of the '154 patent, and that the requested review is based on the following grounds:

- a. Ground 1: Claims 1-5 are anticipated under 35 U.S.C. § 102 by Ross.
- b. Ground 2: Claims 2, 4-8, 10, and 11 are rendered obvious under 35 U.S.C. § 103 by Ross.

- c. Ground 3: Claims 9 and 12 are rendered obvious under 35 U.S.C. § 103 by Ross in view of Calder.
  - d. Ground 4: Claims 1-12 are rendered obvious under 35 U.S.C. § 103 by Calder in view of Sirer.
6. I have been asked to provide a technical review, analysis, and insight regarding the above-noted references, which I understand form the basis for the grounds of rejection set forth in the Petition.
7. I am being compensated for my time in connection with this IPR at a rate of \$400 per hour. I am also being compensated for any out-of-pocket expenses for my work in this review. My compensation as an expert is in no way dependent upon the results of any investigations I undertake, the substance of any opinion I express, or the ultimate outcome of the review proceedings. I have been advised that Bryan Cave LLP represents the Petitioner Symantec, Inc. in this matter. I have no direct financial interest in Symantec, Finjan, or the '154 patent.

## **II. My Background and Qualifications**

8. I am a Professor of Computer Science at the University of Virginia. In addition, I am the Founder and President of Zephyr Software LLC. Zephyr Software, in business since 2001, provides a variety of services including innovative computer security solutions targeted mainly for U.S. Department of

Defense applications. For more than 35 years, I have been involved in the design of computer systems and software as well as leading and managing large software development projects.

9. I earned a Bachelor's of Applied Science in Computer Science from Southern Methodist University in 1975, a Master's of Science in Computer Science from Southern Methodist University in 1977, and a Doctorate in Computer Science from the University of Arizona in 1981. After receiving my Doctorate, I joined the faculty at the University of Virginia. In addition, I have held visiting positions at Princeton University and Microsoft Research in Redmond, Washington.

10. For over 35 years, I have conducted research in a variety of areas in computer science including compilers, interpreters, programming languages, computer architecture, embedded systems, program analysis, and most recently computer security. My current research in computer security involves developing methodologies for preventing attacks against critical, enterprise-level computer systems and preventing malware from infecting personal and mobile computers. In these areas and others I have led and managed several large-scale projects involving the collaboration of top U.S. researchers. I am currently leading a large project (\$5.8M) called the Cyber Fault-tolerant Attack Recovery project at the

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