Filed on behalf of Symantec Corporation

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL
AND APPEAL BOARD

SYMANTEC CORPORATION

Petitioner

v.

FINJAN, INC.

Patent Owner

IPR2015-01892
U.S. Patent No. 8,677,494

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

Symantec 1027
IPR2015-01892

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.   I have used my education and my years of experience working in the field of software design, computer security, and my understanding of the knowledge, creativity, and experience of a person of ordinary skill in the art, in forming the opinions expressed in this report.

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 8,677,494 ("the '494 patent"), entitled "Malicious mobile code runtime monitoring system and methods." I also understand that the '494 patent was filed on November 7, 2011 and issued on March 18, 2014 and that the '494 patent is assigned to Finjan, Inc. ("Finjan" or "Patent Owner").

3.   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 Corporation. in this

matter. I have no personal or financial stake or interest in the outcome of this

matter.

4.　　　I understand that the petition filed in this proceeding raised four

proposed grounds challenging claims 1, 2, 5, 6, 10, 11, 14, and 15 of the '494

Patent. I have reviewed the Board's decision on the petition and its decision on

Patent Owner's request for rehearing and also understand that the Patent Trial and

Appeal Board ("the Board") granted the petition with respect to the following

ground of unpatentability:

- Claims 1, 2, 5, 6, 10, 11, 14, and 15 are unpatentable under § 103 over
  Swimmer (Ex. 1005).

5.　　　I understand that Patent Owner has submitted a response to

Symantec's petition, together with a declaration by Dr. Nenad Medvidovic. In

particular, I understand that Patent Owner and Dr. Medvidovic are challenging

Symantec's arguments and evidence that claims 1, 2, 5, 6, 10, 11, 14, and 15 of

the '494 patent are unpatentable over the Swimmer reference (Ex. 1005).

6.   I have been asked to provide my technical analysis and opinions regarding Patent Owner's response and the corresponding declaration by Dr. Medvidovic, which are set forth in detail in this declaration. This declaration supplements my previous declaration in support of Symantec's petition.

7.   A detailed explanation of my background and qualifications, as well as my expertise in the relevant technology, is provided in my previous declaration. *See* Davidson Decl., ¶¶ 9-27. I have also provided an updated copy of my curriculum vitae. See Symantec Exhibit _____. Additionally, in my previous declaration, I set forth what I believe to be a person of ordinary skill in the art of the subject matter of the '494 Patent, including the skillset, education, experience and knowledge such a person would have possessed. *See* Davidson Decl., ¶¶ 28-30. I have relied on these same principles and definitions in reaching my opinions in this declaration. I also understand that Dr. Medvidovic has provided a different definition for the person of ordinary skill in the art.   It is my opinion, that the opinions set forth in my original declaration and this declaration would remain the same under either party's definition of the person of ordinary skill in the art.

II.   **Analysis of Patent Owner's Response and Dr. Medvidovic's Testimony**

        A. Swimmer's Audit Trail is Stored

8.   In my opinion, the term storing is well understood by those of ordinary skill in the art and requires no further construction. Indeed, the Microsoft Computer Dictionary does not even provide a definition for the term "store" or "storing."

9.   Patent Owner construes "storing" as "placing the derived DSP data into the database."   PO Resp., p. 13. In offering, this construction, Patent Owner relies on a definition of "store" as "to place data into a storage device…" PO Resp., p. 13.   In my opinion, Patent Owner's reliance is misplaced because a storage device implicates a physical medium, while a database is a logical construct.   *See* '194 patent, col. 3:47 ("The data storage device 230 stores a security database 240"). *See* MSCD, p. 16:

> **storage device** \stōr´əj də-vīs`\ *n*. An apparatus for recording computer data in permanent or semi-permanent form. When a distinction is made between primary (main) storage devices and secondary (auxiliary) storage devices, the former refers to random access memory (RAM) and the latter refers to disk drives and other external devices.

10.   Patent Owner appears to rely on Swimmer's disclosure of a "stream of data" to support an argument that Swimmer's audit trail is not stored:

> In contrast to this procedure, Swimmer relies on pipeline processing where the stream of data produced by the emulator is immediately

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