

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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SYMANTEC CORP., and  
BLUE COAT SYSTEMS, INC.,  
Petitioner,

v.

FINJAN, INC.,  
Patent Owner.

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Case IPR2015-01892<sup>1</sup>  
U.S. Patent No. 8,677,494

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**PATENT OWNER'S MOTION FOR OBSERVATIONS  
ON TESTIMONY OF JACK W. DAVIDSON**

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<sup>1</sup> Case IPR2016-00890 has been joined with the instant proceeding.

Patent Owner Finjan, Inc. submits the following observations of the  
November 2, 2016 cross-examination of Jack W. Davidson (Ex. 2041):

**Swimmer's Audit Trail is a Log File, Not a Database**

1. In Exhibit 2041, pg. 76, lines 16-20, the witness testified:

Q. . . Do you agree with Swimmer that an audit trail is a  
sequential file?

A. . . The way he produces it, yes, it's in order. So, yes, it has  
the attribute of being sequential.

This testimony is relevant because Dr. Davidson conceded that Swimmer's audit trail is a sequential file because it is produced in order. This testimony is also relevant because it shows that Swimmer's audit trail is a log file or event log, which is contrary to Petitioner's argument that Swimmer's audit trail is a database.

2. In Exhibit 2041, pg. 34, lines 9-19, the witness testified:

Q. . . So it would be fair to say that traditionally one would  
think of a log file as a sequential file, correct?

A. . . Again, I think typically, because you're -- if you're  
logging data, that implies that things are happening in kind of a time  
order, you know, and so you would typically, for convenience, and  
maybe efficiency. Although, again, I would say there's no

requirement. But, yeah, I would think traditionally typically that's the way it would be done.

This testimony is relevant because Dr. Davidson admits that one would traditionally equate a sequential file to a log file. This testimony is also relevant because it is contrary to Petitioner's argument that Swimmer's audit trail, which is admittedly a sequential file, is not a log file or event log.

3. In Exhibit 2041, pg. 34, line 20- pg. 35, line 4, the witness testified:

Q. . . Can you explain why is it more convenient and efficient?

A. . . Because, you know, like on a disk when you write things to it, there's this kind of notion that the operating system kind of assumes that when you write a piece of data to a file you're gonna write at the end of file, so that may be more efficient than having to seek to a particular record in the file. That seek might take more time.

This testimony is relevant because Dr. Davidson recognizes why it would be more efficient and convenient to use a log file as opposed to a database, including how writing to the end of a log file is more efficient than having to seek to a particular record.

4. In Exhibit 2041, pg. 86, lines 9-15, the witness testified:

Q. . . So in your opinion the '194 patent distinguishes event logs from the security database, correct?

A. . . . Yes. I mean, they're being used for two distinct things,  
in my opinion.

Dr. Davidson conceded that the '194 Patent, which is incorporated in the '494 Patent, makes clear that an event log is distinct from a database. This testimony is relevant because it contradicts Petitioner's unreasonably broad interpretation of the claimed database.

**Converting File Formats is Not "Storing...in a Database"**

5. In Exhibit 2041, pg. 24, line 16- pg. 25, line 3, the witness testified:

Q. . . . Is an NADF file in the form of a file?

A. . . . Yes.

Q. . . . Is an NADF file the same thing as an audit trail in  
Swimmer?

A. . . . It's a converted form of the audit trail. It's going to be called, I think the term is normalized audit data file. So it has a slightly different, you know, format, but the information contained in an NADF file is the same as what was, you know, would be in an audit trail file. They're semantically equivalent and they have exactly the same information.

This testimony is relevant because Dr. Davidson recognizes that an NADF file is in the form of a file, and that when an audit trail is converted into an NADF file it has

exactly the same information as an audit trail. The only difference is that an NADF file has a slightly different format than an audit trail file. This contradicts Petitioner's interpretation that equates the claimed "storing...in a database" to Swimmer's "converting" (i.e., an audit trail from a native file format to an NADF file format).

**The Claimed List of Suspicious Computer Operations Cannot be Created Without Deeming Operations as Suspicious**

6. In Exhibit 2041, pg. 81, lines 10-21, the witness testified:

Q. . . My question's a little different. I'm asking do you agree that computer operations must first be deemed suspicious in order to qualify as a list of suspicious computer operations?

A. . . I'm sorry, it's kind of a circular thing. You're saying must be deemed suspicious to be in a list of suspicious. So, yeah, I mean, I have to deem it to be suspicious to write it to that list of suspicious computer operations. I would agree with that statement.

This testimony is relevant because Dr. Davidson recognizes that the claimed list of suspicious computer operations cannot be created without the additional step of deeming certain operations as suspicious. This testimony contradicts Petitioner's reply argument that there is no need to deem any operations as suspicious in order to qualify as a list of suspicious computer operations.

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