UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT TRIAL AND APPEAL BOARD
SYMANTEC CORP.
Petitioner,
V.
FINJAN, INC., Patent Owner.
ratent Owner.
C. IDD2015 01002
Case IPR2015-01892 Patent 8,677,494

PATENT OWNER'S PRELIMINARY RESPONSE **UNDER 37 C.F.R. § 42.107**



TABLE OF CONTENTS

				<u>Page</u>
I.	INTI	RODU	JCTION	1
II.	THE	' 494	PATENT	5
	A.	Ove	rview	5
	B.	Chal	llenged Claims	7
	C.	Pros	ecution History	8
III.	CLA	IM C	ONSTRUCTION	9
	A.	"dat	abase" (claims 1, 2, 5, 6, 10, 11, 14, and 15)	9
IV.	INV. REV	ALID. TEW S	REASONS WHY THE CITED REFERENCES DO NOT ATE THE CLAIMS, AND WHY INTER PARTES SHOULD NOT BE INSTITUTED	12
	A.		unds 1 and 2: Swimmer Does not Anticipate Challenged ms	13
		1.	Swimmer Cannot Anticipate the '494 Patent Because Swimmer is not Enabled	13
		2.	Petitioner Has Not Demonstrated that Swimmer Discloses "[a receiver for] receiving an incoming Downloadable" (claims 1 and 10)	15
		3.	Petitioner Has Not Demonstrated that Swimmer Discloses "[a Downloadable scanner coupled with said receiver, for] deriving security profile data for the Downloadable, including a list of suspicious computer operations that may be attempted by the Downloadable" (claims 1 and 10)	17
		4.	Petitioner Has Not Demonstrated that Swimmer Discloses "Ia database manager coupled with said	



Patent Owner's Preliminary Response IPR2015-01892 (U.S. Patent No. 8,677,494)

		Downloadable scanner, for] storing the Downloadable security profile data in a database" (claims 1 and 10)	19			
	5.	Petitioner Has Not Demonstrated that Swimmer Discloses "storing a date & time when the Downloadable security profile data was derived [by said Downloadable scanner], in the database" (claims 2 and 11)	22			
	6.	Petitioner Has Not Demonstrated that Swimmer Discloses "wherein suspicious computer operations include calls made to an operating system, a file system, a network system, and to memory" (claims 6 and 15)	23			
B.	Ground 2: Swimmer Does not Render Obvious Claims 5 and 1424					
	1.	Petitioner Has Not Demonstrated that Swimmer Discloses "wherein the Downloadable includes program script" (claims 5 and 14)	24			
C.		and 3: Swimmer Does not Render Obvious the Challenged ms	25			
D.		Ground 4: Cline in view of Ji Does not Render Obvious the Challenged Claims				
	1.	Cline is not Analogous Art	28			
	2.	Petitioner Has Not Demonstrated that Cline in view of Ji Discloses "[a Downloadable scanner coupled with said receiver, for] deriving security profile data for the Downloadable, including a list of suspicious computer operations that may be attempted by the Downloadable" (claims 1 and 10)	31			
	3.	Petitioner Has Not Demonstrated that Cline in view of Ji Discloses "[a database manager coupled with said Downloadable scanner, for] storing the Downloadable security profile data in a database" (claims 1 and 10)	39			
E.		and 5: Forrest in view of Ji does not render the Challenged	13			



Patent Owner's Preliminary Response IPR2015-01892 (U.S. Patent No. 8,677,494)

	1.	Petitioner Has Not Demonstrated that Forrest in view of discloses: "[a Downloadable scanner coupled with said receiver, for] deriving security profile data for the Downloadable, including a list of suspicious computer operations that may be attempted by the Downloadable" (claims 1 and 10)	43
	2.	Petitioner Has Not Demonstrated that Forrest in view of Ji Discloses "[a database manager coupled with said Downloadable scanner, for] storing the Downloadable security profile data in a database" (claims 1 and 10)	
V.	MATTER (ER'S OBVIOUSNESS ARGUMENTS FAIL AS A OF LAW BECAUSE IT DID NOT CONDUCT A E OBVIOUSNESS ANALYSIS	48
VI.	THE PROP	OSED GROUNDS ARE CUMULATIVE	51
VII.	THE PETIT	TION DOES NOT COMPLY WITH 37 C.F.R. § 42.6	51
./TT	CONCLUS	ION	50



TABLE OF AUTHORITIES

	Page(s)
Cases	
Activevideo Networks, Inc., v. Verizon Communications, Inc., 694 F.3d 1312 (Fed. Cir. 2012)	26
Amgen Inc. v. Hoechst Marion Roussel, Inc., 314 F.3d 1313 (Fed. Cir. 2003)	13, 14, 16
In re Antor Media Corp., 689 F.3d 1282 (Fed. Cir. 2012)	13
Apple Inc. v. Int'l Trade Comm'n, 725 F.3d 1356 (Fed. Cir. 2013)	48
In re Arkley, 455 F.2d 586 (Fed. Cir. 1972)	16
In re Bigio, 381 F.3d 1320 (Fed. Cir. 2004)	29
In re Clay, 966 F.2d 656 (Fed. Cir. 1992)	31
CFMT, Inc. v. Yieldup Intern. Corp., 349 F.3d 1333 (Fed. Cir. 2003)	42
Estee Lauder Inc. v. L'Oreal, SA, 129 F.3d 588 (Fed. Cir. 1997)	22
Goertek, Inc. v. Knowles Electronics, LLC, Case No. IPR2013-00523, Paper 26 (PTAB May 30, 2014)	51
Graham v. John Deere Co., 383 U.S. 1 (1966)	48
In re Klein, 647 F.3d 1343 (Fed. Cir. 2011)	29, 31
Leo Pharm. Prods. Ltd. v. Rea, 726 F.3d 1346 (Fed. Cir. 2013)	49, 50, 51



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