

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PALO ALTO NETWORKS, INC.,
Petitioner,

v.

FINJAN, INC.,
Patent Owner.

Case IPR2015-02001
Case IPR2016-00157¹
Patent 8,225,408 B2

Held: January 5, 2017

BEFORE: THOMAS L. GIANNETTI, MIRIAM L. QUINN, and
PATRICK M. BOUCHER, Administrative Patent Judges.

The above-entitled matter came on for hearing on Thursday,
January 5, 2017, commencing at 1:30 p.m., at the U.S. Patent and
Trademark Office, 600 Dulany Street, Alexandria, Virginia.

¹ Case IPR2016-00157 has been consolidated with IPR2015-02001 (“the consolidated proceeding”). Cases IPR2016-00955 and IPR2016-00956 have been consolidated and joined with the consolidated proceeding.

Case IPR2015-02001
Patent 8,225,408 B2

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1 And I also want to remind the parties that arguments are
2 limited to those that are supported by the written briefing. To the
3 extent that an argument is made or evidence presented that lacks
4 support in the written briefing, we will disregard it when we
5 render our final written decision.

6 So now if we could get appearances from the parties,
7 please, beginning with the petitioner.

8 MR. EUTERMOSER: Brian Eutermoser on behalf of
9 petitioner, Palo Alto Networks.

10 JUDGE BOUCHER: Thank you, Mr. Eutermoser. And
11 for the patent owner.

12 MR. HANNAH: Good afternoon, Your Honors. James
13 Hannah on behalf of Finjan. And with me is Shannon Hedvat.

14 JUDGE BOUCHER: And we allotted one hour to each
15 side for argument. So if you want to begin, petitioner, when you
16 are ready, and let us know how much time you would like to keep
17 for rebuttal, and I will keep track of the time here.

18 MR. EUTERMOSER: Thank you, Your Honor. I think
19 we just need a minute to get the slides set up. But I would like to
20 retain 20 minutes for rebuttal.

21 JUDGE BOUCHER: So whenever you are ready,
22 please go ahead and begin.

23 MR. EUTERMOSER: Good afternoon. May it please
24 the Board. In these proceedings, petitioner, Palo Alto Networks,
25 respectfully requests that the Board find all independent claims

1 and certain dependent claims of the '408 patent invalid as
2 obvious.

3 JUDGE GIANNETTI: Mr. Eutermoser, I think you
4 have to get closer to the microphone.

5 MR. EUTERMOSER: Is that better?

6 JUDGE GIANNETTI: That's better.

7 MR. EUTERMOSER: Unless the Board directs
8 otherwise, I plan to proceed through the topics shown on slide 2
9 of petitioner's demonstratives in the order shown here. So I'll
10 start with a quick overview of the '408 patent and then talk briefly
11 about claim construction, state of the art and knowledge of a
12 person of skill in the art, and then deal with the disputed claim
13 limitations.

14 So this case and the '408 patent is about virus detection
15 using parse trees. As we'll see, Finjan didn't invent this field, and
16 prior art discloses and teaches all the limitations in the claims.
17 This is Figure 2 of the '408 patent shown on slide 4 of our
18 demonstratives. And this outlines the three separate stages
19 described in the claims of the '408 patent. It takes an incoming
20 stream of code. That code is passed through a tokenizer and then
21 a parser and then an analyzer, one after the other.

22 And using lexical analysis to convert a data stream to a
23 stream of tokens, that's what happens in the tokenizer. That
24 wasn't new. Nor was using a parser to identify patterns of tokens
25 that correspond to potentially malicious code. Nor was using an

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