51	MANTEC V. FINJAN					1-4
1		Page 1	1			Page 3
2	UNITED STATES PATENT AND TRADEMARK OFFICE		2	λορελ	RANCES:	
3			3	АРРЕА	RANCES.	
4	BEFORE THE PATENT TRIAL		4	BRYAN CAV	TE LLD	
5	AND APPEAL BOARD		5		for Petitioner	
6			6	Accorneys	1290 Avenue of the Americas	
7	SYMANTEC CORPORATION		7		#33	
8	Petitioner,		8		New York, New York 10104	
9	Ϋ.		9	BY:	ALEX WALDEN, ESQ.	
10	FINJAN, INC.,		10	D1.	JOSEPH RICHETTI, ESQ.	
11	Patent Owner.		11		FRANK M. FABIANI, ESQ.	
12			12		FRANK M. FADIANI, ESQ.	
13	Case IPR2015-01892		13	KDYWED I'E	VIN NAFTALIS & FRANKEL LLP	
14	Patent 8,677,494		14			
15				Accorneys	for Patent Owner 1177 Avenue of the Americas	
16			15			
17	DEPOSITION OF		16	DV	New York, New York 10036	
18	JACK W. DAVIDSON		17	BY:	MICHAEL LEE, ESQ.	
19	FRIDAY, MAY 27, 2016		18		JEFFREY H. PRICE, ESQ.	
20	9:00 a.m.		19			
21			20			
22			21			
23			22			
24			23			
25	Reported by: Adrienne M. Mignano, RPR		24			
	Job Number: J0357928		25			
		Page 2				Page 4
1		U	1		Davidson	Ũ
2			2	J-A-C-K	W. D-A-V-I-D-S-O-N, call	ed as
3			3	a wi	tness, having been duly swo	orn
4			4	by a	Notary Public, was examin	ed and
5	May 27, 2016		5	•	fied as follows:	
б	9:00 a.m.		6	EXAMIN	ATION BY	
7	New York, New York		7	MR. LEE	:	
8			8		Please state your full name a	and
9	Deposition of JACK W. DAVIDSON,		9		for the record.	
10	held at the offices of Bryan Cave, 1290		10		My name is Jack W. Davids	on and
11	Avenue of the Americas, New York, New Yor	٢,	11		at 2040 Tremont Road,	,
12	pursuant to Notice, before Adrienne M.		12		esville, Virginia.	
13	Mignano, a Notary Public of the State of M	New	13		Do you understand why you	're
14	York.		14	here too		
15			15		Yes, I do.	
16			16		Why are you here today?	
17			17		'm here to testify on behalf of	of
18			18		ec regarding the IPR, regard	
19			10	Patent '		ung
20			20			hout
21			20		Did you offer any opinions a Patent?	Jour
22						
23			22		did. Maat in vour opinion?	
24			23		What is your opinion?	hor
24			24		Can you be more specific ot	ner
25			25	than wh	at is my opinion?	
					800.211.DEPO	(3376)
DOCK	FT				EsquireSolutio	
ALAI	R M Find authenticated court doc	uments	s wit	hout wate	ermarks at <u>docketalarm.com</u> .	

01	MANTEC V. FINJAN		5–8
	Page 5		Page 7
1	Davidson	1	Davidson
2	Q Did you offer any opinions in	2	declaration in support of the Petitioner's
3	this case?	3	petition to the IPR Board regarding the
4	A Yes, I submitted a declaration.	4	'494 Patent.
5	Q What opinions does the	5	Q So this is the declaration you
6	declaration	6	were referring to earlier?
7	A I'm sorry. What?	7	A Yes.
8	Q What are the opinions in your	8	Q Can you go to page 96 of your
9	declaration?	9	declaration?
10	A I mean, again, can you be more	10	A Yes.
11	specific?	11	Q Is that your signature?
12	Q Would you be able to give me a	12	A That is my signature.
13	summary of the opinions in the	13	Q Did you sign that on September
14	declaration?	14	10, 2015?
15	A So I looked at the claim	15	A Yes, I did.
16	language and I looked at the prior art,	16	Q What is your understanding that,
17		17	as of September 10, 2015, you were
		18	supposed to put into your declaration all
19	claim language, and my opinion was that	19	the opinions you had in this case?
20	it, in fact, did.	20	A All the what?
21	Q Which prior art?	21	Q All the opinions you had in this
22	A There were several pieces that	22	case?
23	are cited in my declaration.	23	A I didn't understand. All the
24	There is a paper in the Virus	23	dependents?
24	Bulletin by a person named Morton Swimmer,	24	•
25		25	Q Opinions.
	Page 6		Dogo 9
1		4	Page 8
1	Davidson	1	Davidson
2	Davidson I think that was.	2	Davidson A Opinions?
23	Davidson I think that was. Another piece of prior art that	2 3	Davidson A Opinions? Q Yes. Let me just rephrase it so
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Page 91Davidson2errors. But in terms of the opinions, no, 3 they are complete and accurate.1Davidson4QPlease describe for me the 5 process of writing your declaration.3AYes, and that's, you know, or 4 of the it's cited in my declaration.6ASo, I mean the first step was 7 counsel provided me the patent, and I 8 first did a prior art search, you know, at 9 the time of the patent, and collected, you 10 know, lots of material, and read those, 11 read the patent and analyzed the various 12 pieces of prior art to define, you know, 13 did I feel like it was relevant, you know, 14 was it in the scope.8AThat's a good I don't know 9 I don't remember, you know, who a 10 found that. I do subscribe to the V 11 Bulletin, which is where the Mortor 12 Swimmer paper appeared. It is a 13 publication I was very familiar with 14 knew to go look in their archives.16provided me a template, you know, with a 17 document that was kind of a framework, the 18 kind of formatting and that kind of thing. 19 I began writing. I wrote a lot. At some 20 point, I think well, at some point, I 21 came up here and, you know, spent time 22 with counsel. They were briefing me on 23 some of the aspects of patent law. I'm 24 not an attorney so they were explaining 25 pieces of that, you know, and I1Davidson1Davidson1Davidson1Davidson2identified it. I might be able to ans 24 not an attorney so they were explaining 25 pieces of that, you know, and I1Davidson2incorporated some of that in myPage 101Davidson1	r ou by /. ctually irus and and ed ught a ice what's , .now,
 2 errors. But in terms of the opinions, no, 3 they are complete and accurate. 4 Q Please describe for me the 5 process of writing your declaration. 6 A So, I mean the first step was 7 counsel provided me the patent, and I 8 first did a prior art search, you know, at 9 the time of the patent, and collected, you 10 know, lots of material, and read those, 11 read the patent and analyzed the various 12 pieces of prior art to define, you know, 13 did I feel like it was relevant, you know, 14 was it in the scope. 15 And then at some point, counsel 16 provided me a template, you know, with a 17 document that was kind of a framework, the 18 kind of formatting and that kind of thing. 19 I began writing. I wrote a lot. At some 20 point, I think well, at some point, I 21 came up here and, you know, spent time 22 with counsel. They were briefing me on 23 some of the aspects of patent law. I'm 24 not an attorney so they were explaining 25 pieces of that, you know, and I 1 Davidson 2 incorporated some of that in my 2 Page 10 1 Davidson 2 ereference by Morton Swimmer? 3 A Yes, and that's, you know, ot 4 of the it's cited in my declaration. 5 Q Did you locate the Swimme 6 reference or was that provided to y 7 counsel? 8 A That's a good I don't know 9 I don't remember, you know, who a 1 Davidson 2 incorporated some of that in my 	r ou by /. ctually irus and and ed ught a ice what's , .now,
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4QPlease describe for me the process of writing your declaration.5process of writing your declaration.6ASo, I mean the first step was recounsel provided me the patent, and I7first did a prior art search, you know, at 9 the time of the patent, and collected, you 10 know, lots of material, and read those, 11 read the patent and analyzed the various 12 pieces of prior art to define, you know, 13 did I feel like it was relevant, you know, 14 was it in the scope.8AThat's a good I don't know 9 I don't remember, you know, who a 10 found that. I do subscribe to the V 11 Bulletin, which is where the Mortor 12 Swimmer paper appeared. It is a 13 did I feel like it was relevant, you know, 14 was it in the scope.15And then at some point, counsel 16 provided me a template, you know, with a 17 document that was kind of a framework, the 18 kind of formatting and that kind of thing. 19 I began writing. I wrote a lot. At some 20 point, I think well, at some point, I 21 came up here and, you know, spent time 22 with counsel. They were briefing me on 23 some of the aspects of patent law. I'm 24 not an attorney so they were explaining 25 pieces of that, you know, and I1Davidson1Davidson1Davidson1Davidson1Davidson1Davidson1Davidson	r ou by /. ctually irus and and ed ught a ice what's , .now,
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2 incorporated some of that in my 2 head, I couldn't tell you.	Page 12
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3 declaration. 3 Q Sitting here today, which are	
4 We also talked about the prior 4 the prior references that you person	
5 art, you know, and I explained to them my 5 located as opposed to ones that cou	
6 understanding of the patent, you know, and 6 provided to you?	
7 read the patent. I explained some of the 7 A I think I located Forrest.	
8 prior art, you know, and why I thought it 8 Again, you know, I think that I did, b	it
9 may be relevant to this litigation or, you 9 again, I would have to go look at my	
10 know, this IPR. We discussed those, you 10 records, you know, to be absolutely	
11 know, and then I would write more. I 11 Q Can you go to paragraph 9	
12 would discuss what I was writing and 12 your declaration?	21
13 points with the attorney. 13 A I'm on paragraph 9.	
14 And that was kind of an 14 Q Do you see where you talk a	bout
	126
18 A Yes, sir. 10 Q Yeu montioned you performed a	
19 Q You mentioned you performed a 19 Q Can you describe these con	iputer
20 prior art search? 20 security solutions?	
21 A Yes. 21 A So right now, Zephyr Softward	r۵
22 Q Was any of the prior art that 22 has two contracts that we're workin	
122 You coordead the Marton Cummer reference? I CO Constantial day with the sould DADDA DA	g on.
23 you searched the Morton Swimmer reference? 23 One is with the with DARPA. DA	g on. RPA is
 23 you searched the Morton Swimmer reference? 23 One is with the with DARPA. DA 24 A Say that again. 25 Q You say there was a prior art 25 Agency. And this project is looking 	g on. RPA is roject

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SYI	MANTEC V. FINJAN		13–16
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1	Davidson	1	Davidson
2	securing embedded systems and industrial	2	may be exploited by a malicious adversary.
3	control systems, and I think that would be	3	So we are analyzing code, and to
4	of interest to the military. And so this	4	do that, you have to parse the code to
5	project is looking at how to analyze the	5	determine the structure, to determine what
6	code for those things, identify	6	the program is attempting to do, you know,
7	vulnerability. Vulnerability is a	7	and that requires different kinds of
8	weakness in code that can be exploited by	8	analysis. So, again, we are looking for
9	a malicious adversary, who would like to	9	what are called "unintentional weaknesses"
10	potentially take over the system.	10	in the code.
11	The kinds of systems that we	11	I'll make a distinction between
12	would be talking about here might be the	12	the '494 Patent and the techniques they
13	power grid, or, you know, a system for	13	used, but there is a difference in terms
14	controlling water purification, or that	14	of the '494 in the specification is really
15	kind of thing. And so, you know, we're	15	talking it seems to be focused on what
16	developing solutions that analyze that	16	I'll call "malicious code" that
17	code, find vulnerabilities, and patch	17	intentionally, you know, has code in it
18	those vulnerabilities.	18	that is going to do something maybe bad in
19	The other project I have is	19	some way. And that's not in scope for,
20	being funded by ONR, the Office of Naval	20	you know, the projects that I'm working
21	Research. And there we are looking at a	21	on. The projects that I'm working on, it
22	different kind of system, mainly servers,	22	is assumed that the code is, you know
23	you know, web servers or critical servers	23	it doesn't include stuff that's been added
24	that are providing service to the	24	by, let's say, a malicious adversary.
25	military, and, again, similarly analyzing	25	Q I'm looking to understand what
	Page 14		Page 16
1	Davidson	1	Davidson
2	the code and attempting to here it is	2	you meant by parses or parsing.
3	very specific, we're looking at trying to	3	How would you explain what
4	prevent a certain kind of exploiting	4	parsing is to a layperson?
5	called "program hijacking", and this is	5	A So, let's see, let me think
6	where an adversary is able to take control	6	about that. How would I explain that to a
7	of the program, you know, and then carry	7	layperson?
8	out malicious actions.	8	So are you asking me in the
9	Q These computer security	9	context of the '494 Patent, you know, or
10	solutions related the '494 Patent?	10	are you just talking about, again, in
11	A They are related in the sense	11	general to not paying any you know,
12	that the '494 Patent discusses a	12	relevant to the '494? Because the term
13	downloadable scanner that parses code, and	13	"parsing", you know, can have, depending
14	that is one of the things that locate	14	on the context, different meanings.
15	these vulnerabilities that I mentioned	15	Q How is it different in the '494
16	that you would certainly do, you know, and	16	Patent as opposed to outside the '494
17	analyze the code. So in that sense, yes,	17	Patent?
18	very related.	18	A So, in the '494, they are
19	Q What do you mean by "parses the	19	talking about parsing a downloadable. So,
20	code"?	20	you know, that's the context of that
20	A So to be able to understand the	20	patent.
21		22	•
	code in the context of my project, you		Q How is parsing different if it
23	know, these two projects, as I said, we're	23	is not downloadable?
24	looking to identify vulnerabilities in the	24	A Well, I can parse a sentence. I
25	code. These are weaknesses that, again,	25	mean, this is a common thing like, you
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1	Davidson	1	Davidson
2	know, children learn how to parse a	2	identify the operation that this
3	sentence. So, you know, that might be	3	downloadable in this case would
4	something you would say to a layperson.	4	potentially carry out.
5	Q How would you explain what it	5	Q I think you mentioned that
6	means to parse a downloadable to a	6	Swimmer is regarding binary executable
7	layperson?	7	programs?
8	A I think, you know, I would do it	8	A So Swimmer in the paper
9	in very for a layperson, I would do it	9	discusses doing virus detection on
10	in general terms that I would explain what	10	programs that are received, and the
11	a downloadable was in this context.	11	examples that he discusses are yes, for
12	So a downloadable is information	12	the 8086 processor.
13	that includes program code, code that	13	Q What do you mean by a binary?
14	could be executed. And then, in this	14	A So normally a binary when
15	-	15	we're talking about a binary program, that
	case, you know, in that context, the	16	
16	parsing would be to take that code and		typically would mean a program that is
17	analyze it in some way, which means you	17	designed on a particular processor at that
18	would have to, you know, again try to	18	level, I mean at the level of the
19	for instance, if it was machine code, you	19	processor.
20	might want to, again in the context of the	20	So, for instance, there are many
21	patent, decode the instructions for the	21	different processors, but in the context
22	particular machine, and, you know,	22	of the Swimmer paper, he discusses the
23	understand what those functions are that	23	8086. That's a processor that's made by
24	would, you know, apply for what I'll call	24	Intel, manufactured by Intel. So we're
25	a "binary program".	25	talking about, you know, a program that is
	Dama 40		
	Page 18		Page 20
1	Page 18 Davidson	1	Page 20 Davidson
1		1 2	
2	Davidson Q You mentioned a decoding.		Davidson
	Davidson Q You mentioned a decoding. What is decoding?	2	Davidson going to run directly on that designed to run directly on that particular
2 3 4	Davidson Q You mentioned a decoding. What is decoding? A Again, in the context of the	2 3 4	Davidson going to run directly on that designed to run directly on that particular processor, designed to run.
2 3 4 5	Davidson Q You mentioned a decoding. What is decoding? A Again, in the context of the patent and some of the prior art, and	2 3 4 5	Davidson going to run directly on that designed to run directly on that particular processor, designed to run. Q What does it mean when a
2 3 4 5 6	Davidson Q You mentioned a decoding. What is decoding? A Again, in the context of the patent and some of the prior art, and specifically Swimmer, you're looking at	2 3 4 5 6	Davidson going to run directly on that designed to run directly on that particular processor, designed to run. Q What does it mean when a program, a file, is in binary format?
2 3 4 5 6 7	Davidson Q You mentioned a decoding. What is decoding? A Again, in the context of the patent and some of the prior art, and specifically Swimmer, you're looking at what I will call a binary executable.	2 3 4 5 6 7	Davidson going to run directly on that designed to run directly on that particular processor, designed to run. Q What does it mean when a program, a file, is in binary format? A In some sense again, the
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