

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Symantec Corp.,
Petitioner

v.

Finjan, Inc.
Patent Owner

U.S. Patent No. 8,141,154
Filing Date: June 14, 2010
Issue Date: March 20, 2012

Title: System and Method for Inspecting
Dynamically Generated Executable Code

IPR2016-00919

Petition for *Inter Partes* Review of U.S. Patent No. 8,141,154

Exhibit No.	Description of Document
1001	U.S. Patent No. 8,141,154 (“the ’154 patent”)
1002	Declaration of Dr. Aviel Rubin
1003	U.S. Patent Publication No. 2005/0108562 (“Khazan”)
1004	Emin Gün Sirer, et al., “Design and Implementation of a Distributed Virtual Machine for Networked Computers” (Dec. 5, 1999) (“Sirer”)
1005	U.S. Patent No. 7,437,362 (“Ben-Natan”)
1006	File History of United States Patent No. 8,141,154
1007	Curriculum Vitae of Dr. Aviel Rubin
1008	Declaration of Emin Gün Sirer
1009	U.S. Patent No. 5,983,348 (“Ji”)
1010	U.S. Patent Publication No. 2001/0005889 (“Albrecht”)
1011	Ajay Chander, et al., “Mobile Code Security by Java Bytecode Instrumentation” (June 12-14, 2001) (“Chander”)
1012	Galen Hunt, et al., “Detours: Binary Interception of Win32 Functions” (July 1999) (“Hunt”)
1013	Microsoft Computer Dictionary, Fifth Ed. (2002)
1014	3Com, “3C90x and 3C90xB NICs Technical Reference” (Aug. 1998)
1015	David E. Evans, “Policy-Directed Code Safety” (Oct. 19, 1999) (“Evans”)
1016	David K. Gifford, “Weighted Voting for Replicated Data” (1979) (“Gifford”)
1017	Andrew D. Birrell, et al., “Grapevine: An Exercise in Distributed Computing” (Apr. 1982) (“Birrell”)
1018	Jennifer G. Steiner, et al., “Kerberos: An Authentication Service for Open Network Systems” (Jan. 12, 1988) (“Steiner”)
1019	F-Secure Anti-Virus for Firewalls 6.20
1020	Jeff A. McConnell, “Content Vectoring Protocol with Checkpoint and Interscan Viruswall” (Mar. 4, 2002) (“McConnell”)
1021	U.S. Patent No. 7,207,065 (“Chess”)
1022	Sun Microsystems, “Sun ONE Portal Server 3.0 Rewriter Configuration and Management Guide” (Sept. 13, 2002)
1023	Algis Rudys & Dan S. Wallach, “Enforcing Java Run-Time Properties Using Bytecode Rewriting” (2002) (“Rudys”)
1024	U.S. Patent No. 6,324,685 (“Balassanian”)
1025	John Lewis, et al., “Java Software Solutions, Foundations of Program

Exhibit No.	Description of Document
	Design” (1998) (“Lewis”)
1026	Larry L. Peterson, et al., “Computer Networks, A Systems Approach” (“Peterson”)
1027	Waldemar Horwat, “JavaScript 2.0: Evolving a Language for Evolving Systems” (2001) (“Horwat”)
1028	Daniel A. Reed, et al., “Scalable Performance Analysis: The Pablo Performance Analysis Environment” (1993) (“Reed”)
1029	Que Corporation, “C Programming Guide 2nd Edition” (1985)
1030	Herbert Schildt, “C++ from the Ground Up” (1994) (“Schildt”)
1031	Virus Bulletin (Nov. 1991)
1032	Dmitry O. Gryaznov, “Scanners of the Year 2000: Heuristics” (Sept. 1995)
1033	R. Srinivasan, Request for Comments: 1831, ROC: Remote Procedure Call Protocol Specification, Version 2, (August 1995)
1034	Dan Raywood, Press Release - M86 Security completes acquisition of Finjan (Nov. 3, 2009)
1035	Gerard Le Lann, “Distributed Systems – Towards a Formal Approach,” Information Processing (1977)

TABLE OF CONTENTS

	<u>Page</u>
I. INTRODUCTION	1
II. MANDATORY NOTICES UNDER 37 C.F.R. § 42.8(A)(1)	1
A. Real Party-In-Interest Under 37 C.F.R. § 42.8(b)(1)	1
B. Related Matters Under 37 C.F.R. § 42.8(b)(2)	2
C. Lead and Back-Up Counsel Under 37 C.F.R. § 42.8(b)(3)	2
D. Service Information	3
E. Power of Attorney	3
III. PAYMENT OF FEES - 37 C.F.R. § 42.103	3
IV. REQUIREMENTS FOR <i>INTER PARTES</i> REVIEW UNDER 37 C.F.R. §§ 42.104 AND 42.108	3
A. Grounds for Standing Under 37 C.F.R. § 42.104(a)	3
B. Identification of Challenge Under 37 C.F.R. § 42.104(b) and Statement of Precise Relief Requested	4
C. Status of the Cited References as Prior Art	4
D. Threshold Requirement for <i>Inter partes</i> Review Under 37 C.F.R. § 42.108(c)	5
V. BACKGROUND OF TECHNOLOGY RELATED TO THE '154 PATENT	5
VI. SUMMARY OF THE '154 PATENT AND ITS PROSECUTION HISTORY	7
A. Brief Description of the '154 Patent	7
B. Priority Date of the Petitioned Claims	8
VII. CLAIM CONSTRUCTION UNDER 37 C.F.R. § 42.104(b)(3)	8
A. Legal Overview	8
B. Construction of “first function” (All Petitioned Claims)	9
C. Construction of “second function” (All Petitioned Claims)	10
D. Construction of “transmitter” (Claims 1-3 and 6-8)	11
E. Construction of “receiver” (Claims 1-3 and 6-8)	11

VIII. PERSON HAVING ORDINARY SKILL IN THE ART & STATE OF THE ART	12
IX. THE PETITIONED CLAIMS ARE UNPATENTABLE OVER THE PRIOR ART.....	13
A. Overview of Khazan.....	13
B. Overview of Sirer	15
C. Overview of Ben-Natan	16
D. Khazan, Sirer, and Ben-Natan Are All Analogous Art.....	17
X. CLAIMS 1-8, 10, AND 11 OF THE '154 PATENT ARE UNPATENTABLE.....	18
A. Ground 1 – Claims 1 - 5 Are Obvious Under 35 U.S.C. § 103(a) Over Khazan in View of Sirer.....	18
1. Claim 1	18
a. Claim 1 preamble 1[a]	18
b. Claim element 1[b]	18
c. Claim element 1[c]	19
d. Claim element 1[d]	19
(1) It would be obvious to combine Khazan and Sirer	21
e. Claim element 1[e]	27
f. Claim element 1[f].....	28
g. Claim element 1[g]	29
h. Claim element 1[h]	34
i. Claim element 1[i]	36
j. Claim element 1[j]	36
2. Claim 2	39
a. Claim element 2[a]	39
b. Claim element 2[b]	40
3. Claim 3	41
4. Claim 4	41

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.