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13   IN THE UNITED STATES DISTRICT COURT

14   FOR THE NORTHERN DISTRICT OF CALIFORNIA

15   SAN JOSE DIVISION

16
    FINJAN, INC., a Delaware Corporation,
17
                Plaintiff,
18
            v.
19
    PROOFPOINT, INC. AND ARMORIZE
    TECHNOLOGIES, INC.,
20
                Defendants.
21

22

Case No.: 13-CV-05808-BLF

**JOINT CLAIM CONSTRUCTION AND
PRE-HEARING STATEMENT
PURSUANT TO PATENT LOCAL RULE
4-3**

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28   05829.00001/6471714.1

1   Pursuant to the Court's Case Management Order and Patent L.R. 4-3 Plaintiff Finjan, Inc.

2 ("Finjan") and Defendants Proofpoint, Inc. and Armorize Technologies, Inc. (collectively "Proofpoint"

3 or "Defendants") hereby submit this Joint Claim Construction and Pre-Hearing Statement.

4 **I.   PATENT L.R. 4-3(a): CLAIM TERMS ON WHICH THE PARTIES AGREE.**

5   During the meet and confer process, the parties have agreed to the following constructions:

Claim Term	Agreed Construction
Downloadable	an executable application program, which is downloaded from a source computer and run on the destination computer
Security Context	an environment in which a software application is run, which may limit resources that the application is permitted to access or operations that the application is permitted to perform
CODE-A	potentially malicious executable code
CODE-B	executable wrapper code
CODE-C	combined code

17 **II.   PATENT L.R. 4-3(b): PROPOSED CONSTRUCTION OF EACH DISPUTED TERM.**

18   The parties' proposed claim constructions are provided below. All supporting evidence for the

19 parties' claim constructions is provided in Exhibit A.[1] The parties reserve their rights to cite additional

20 supporting evidence based on arguments raised in the claim construction briefs. The parties propose

21 that, for the purposes of identifying claim terms for construction, a party's designation of a term that

22 appears across multiple patents shall only count as a single term to be construed to the extent the

23 intrinsic record does not change the meaning across the patents. Additionally, the parties propose that

24 for the purposes of construing the terms identified herein, if the same term appears across multiple

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[1] In support of any claim construction argument, the parties reserve the right to rely on any inconsistent positions taken by either party in any other proceeding concerning the asserted patents, as well as any of the evidence cited by the other party.

1   related patents in the same family, to the extent the intrinsic evidence does not require a different

2   result, it shall have the same meaning for all of those patents, as noted below.

3   Moreover, it is Proofpoint's position that similar terms for which the same or substantially

4   similar construction is proposed and rely on the same or substantially similar intrinsic and extrinsic

5   evidence, should be construed together and counted as only a single term to be construed. Finjan

6   disagrees with Proofpoint's position.

U.S. Patent No. 6,154,844			
Claim Term	**Claim(s)**	**Finjan's Proposed Construction**	**Defendants' Proposed Construction**
means for receiving a Downloadable	43	Governed by 35 U.S.C. § 112(6): **Function:** receiving a Downloadable **Structure:** Downloadable file interceptor	means-plus-function under § 112, ¶ 6 function: receiving a Downloadable structure: indefinite for failure to disclose corresponding structure/algorithm
means for generating a first Downloadable security profile that identifies suspicious code in the received Downloadable	43	Governed by 35 U.S.C. § 112(6): **Function:** generating a first Downloadable security profile that identifies suspicious code in the received Downloadable **Structure:** content inspection engine	means-plus-function under § 112, ¶ 6 function: generating a first Downloadable security profile that identifies suspicious code in the received Downloadable structure: indefinite for failure to disclose corresponding structure/algorithm
means for linking the first Downloadable security profile to the Downloadable before a web server makes the Downloadable available to web clients	43	Governed by 35 U.S.C. § 112(6): **Function:** linking the first Downloadable security profile to the Downloadable before a web server makes the Downloadable available to web clients	means-plus-function under § 112, ¶ 6 function: linking the first Downloadable security profile to the Downloadable before a web server makes the Downloadable available to web clients structure: indefinite for failure to disclose corresponding

U.S. Patent No. 6,154,844			
Claim Term	**Claim(s)**	**Finjan's Proposed Construction**	**Defendants' Proposed Construction**
		Structure: content inspection engine	structure/algorithm
Downloadable security profile that identifies suspicious code in [a / the] [received] Downloadable	1, 15, 32, 42, 43	a profile that identifies hostile or potentially hostile operations in the Downloadable	a profile that identifies code in the received Downloadable that performs hostile or potentially hostile operations
before [a /the] web server make[s] the Downloadable available to [the] web client[s]	1, 15, 32, 42, 43	No construction necessary – Plain and ordinary meaning.	before [a/the] non-network gateway web server make[s] the Downloadable available to web clients
web client[s]	1, 15, 32, 42, 43	No construction necessary – Plain and ordinary meaning.	an application on a user computer that requests and downloads web page data from a web server
web server	1, 15, 32, 42, 43	No construction necessary – Plain and ordinary meaning.	non-network gateway web server
linking the first Downloadable security profile to the Downloadable	1, 15, 43	No construction necessary – Plain and ordinary meaning.	creating an association from the Downloadable to the first Downloadable security profile, including using a pointer from the Downloadable to the profile or attaching the profile to the Downloadable
Downloadable [includes / with] a linked [first] Downloadable security profile	32, 42	No construction necessary – Plain and ordinary meaning.	Downloadable [includes / with] an association to a [first] Downloadable security profile, including using a pointer from the Downloadable to the profile or attaching the profile to the Downloadable
security policy	32, 42	No construction necessary – Plain and ordinary meaning.	a set of rules for managing whether to allow or block a Downloadable to an intended

U.S. Patent No. 6,154,844			
Claim Term	**Claim(s)**	**Finjan's Proposed Construction**	**Defendants' Proposed Construction**
			recipient
receiving by an inspector a Downloadable; generating by the inspector a first Downloadable security profile that identifies suspicious code in the received Downloadable; and linking by the inspector the first Downloadable security profile to the Downloadable before a web server makes the Downloadable available to web clients.	1	No construction necessary – Plain and ordinary meaning.	"inspector" is means-plus-function under § 112, ¶ 6 function: receiving a Downloadable, generating a Downloadable security profile that identifies suspicious code in the received Downloadable, and linking the first Downloadable security profile to the Downloadable before a web server makes the Downloadable available to web clients structure: the algorithm performed by the content inspection engine 160 and disclosed at Fig. 6 and col. 8, l. 47 – col. 9, l. 16
a first content inspection engine for using the first rule set to generate a first Downloadable security profile that identifies suspicious code in a Downloadable, and for linking the first Downloadable security profile to the Downloadable before a web server makes the Downloadable available to web clients	15	No construction necessary – Plain and ordinary meaning.	means-plus-function under § 112, ¶ 6 function: using the first rule set to generate a first Downloadable security profile that identifies suspicious code in a Downloadable, and linking the first Downloadable security profile to the Downloadable before a web server makes the Downloadable available to web clients structure: the algorithm performed by the content inspection engine 160 and disclosed at Fig. 6 and col. 8, l. 47 – col. 9, l. 16

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