

PAUL J. ANDRE (State Bar No. 196585)
pandre@kramerlevin.com
LISA KOBIALKA (State Bar No. 191404)
lkobialka@kramerlevin.com
JAMES HANNAH (State Bar No. 237978)
jhannah@kramerlevin.com
KRAMER LEVIN NAFTALIS & FRANKEL
LLP
990 Marsh Road
Menlo Park, CA 94025
Telephone: (650) 752-1700
Facsimile: (650) 752-1800
Attorneys for Plaintiff
FINJAN, INC.

QUINN EMANUEL URQUHART &
SULLIVAN, LLP
Jennifer A. Kash (Bar No. 203679)
jenniferkash@quinnemanuel.com
Sean Pak (Bar No. 219032)
seanpak@quinnemanuel.com
Iman Lordgooei (Bar No. 251320)
imanlordgooei@quinnemanuel.com
Howard Chen (Bar No. 265015)
howardchen@quinnemanuel.com
50 California Street, 22nd Floor
San Francisco, California 94111-4788
Telephone: (415) 875-6600
Facsimile: (415) 875-6700

Attorneys for Defendants
PROOFPOINT, INC. and ARMORIZE
TECHNOLOGIES, INC.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

FINJAN, INC., a Delaware Corporation,
Plaintiff,
v.
PROOFPOINT, INC. AND ARMORIZE
TECHNOLOGIES, INC.,
Defendants.

Case No.: 13-CV-05808-BLF

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

Pursuant to the Court's Case Management Order and Patent L.R. 4-3 Plaintiff Finjan, Inc. ("Finjan") and Defendants Proofpoint, Inc. and Armorize Technologies, Inc. (collectively "Proofpoint" or "Defendants") hereby submit this Joint Claim Construction and Pre-Hearing Statement.

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

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

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

The parties' proposed claim constructions are provided below. All supporting evidence for the parties' claim constructions is provided in Exhibit A.¹ The parties reserve their rights to cite additional supporting evidence based on arguments raised in the claim construction briefs. The parties propose that, for the purposes of identifying claim terms for construction, a party's designation of a term that appears across multiple patents shall only count as a single term to be construed to the extent the intrinsic record does not change the meaning across the patents. Additionally, the parties propose that for the purposes of construing the terms identified herein, if the same term appears across multiple

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.

related patents in the same family, to the extent the intrinsic evidence does not require a different result, it shall have the same meaning for all of those patents, as noted below.

Moreover, it is Proofpoint's position that similar terms for which the same or substantially similar construction is proposed and rely on the same or substantially similar intrinsic and extrinsic evidence, should be construed together and counted as only a single term to be construed. Finjan 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 <u>function:</u> receiving a Downloadable <u>structure:</u> 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 <u>function:</u> generating a first Downloadable security profile that identifies suspicious code in the received Downloadable <u>structure:</u> 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 <u>function:</u> linking the first Downloadable security profile to the Downloadable before a web server makes the Downloadable available to web clients <u>structure:</u> 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.	<p>“inspector” is means-plus-function under § 112, ¶ 6</p> <p><u>function</u>: 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</p> <p><u>structure</u>: the algorithm performed by the content inspection engine 160 and disclosed at Fig. 6 and col. 8, l. 47 – col. 9, l. 16</p>
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.	<p>means-plus-function under § 112, ¶ 6</p> <p><u>function</u>: 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</p> <p><u>structure</u>: the algorithm performed by the content inspection engine 160 and disclosed at Fig. 6 and col. 8, l. 47 – col. 9, l. 16</p>

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.