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Paper 62
Entered: March 15, 2017

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PALO ALTO NETWORKS, INC. and SYMANTEC CORP.,
Petitioner,

v.

FINJAN, INC.,
Patent Owner.

Case IPR2015-01979[1]
Patent 8,141,154 B2

Before, THOMAS L. GIANNETTI, RICHARD E. RICE, and MIRIAM L. QUINN, *Administrative Patent Judges.*

QUINN, *Administrative Patent Judge.*

FINAL WRITTEN DECISION
35 U.S.C. § 318(a) and 37 C.F.R. § 42.73

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[1] This case is joined with IPR2016-00919. Paper 28 ("Decision on Institution of *Inter Partes* Review and Grant of Motion for Joinder," filed by Symantec Corp.).

Palo Alto Networks, Inc. and Symantec Corp. (collectively, "Petitioner") have each filed petitions to institute *inter partes* review of claims 1–8, 10, and 11 of U.S. Patent No. 8,141,154 B2 ("the '154 patent") pursuant to 35 U.S.C. § 311–319. In response to the first petition, filed by Palo Alto Networks, Inc.,[2] Finjan, Inc. ("Patent Owner") filed a Preliminary Response. Paper 6 ("Prelim. Resp."). Upon consideration of the Petition and the Preliminary Response filed by Finjan, we instituted trial as to all the challenged claims. Paper 8 ("Dec.").

Subsequently, Symantec filed a petition seeking review of the same claims of the '154 patent. IPR2016-00919, Paper 3. With this second petition, Symantec filed a motion to join IPR2016-00919 with this proceeding. We granted Symantec's motion, joined the cases, terminated IPR2016-00919, and ordered consolidation of all Petitioner filings in this proceeding. Paper 10, at 5.

During trial, Patent Owner filed a Patent Owner Response;[3] and Petitioner filed a Reply.[4] Patent Owner also filed Motions for Observations of the November 14, 2016 cross- examination of Petitioner's declarant, Dr. Aviel Rubin. Paper 47 ("Mot. for Obs."). Petitioner responded to Patent Owner's Motion for Observations. Paper 49 ("Resp. Obs."). Both parties also filed Motions to Exclude. Paper 46 ("Pet. Mot. to Exclude"); Paper 48 ("PO Mot. to Exclude"). Both parties filed Oppositions and Replies concerning the Motions to Exclude. Papers 50, 51, 53, 55.

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[2] Paper 2 ("Petition" or "Pet.").
[3] Paper 22 ("PO Resp.").
[4] Paper 35 ("Reply").

An oral hearing was held on December 15, 2016.[5]

We have jurisdiction under 35 U.S.C. § 6. This Final Written Decision is issued pursuant to 35 U.S.C. § 318(a). For the reasons discussed herein, and in view of the record in this trial, we determine that Petitioner has not shown by a preponderance of the evidence that claims 1–8, 10, and 11 of the '154 patent are unpatentable.

I. BACKGROUND

A. RELATED MATTERS

Petitioner identifies that the '154 patent as the subject of various district court cases filed in the U.S. District Court for the Northern District of California (Case Nos. 3:14-cv-04908, 3:14-cv-02998, 5:15-cv-01353, 5:14-cv-04398, 3:14-cv-01197, and 3:13-cv-05808). Pet. 3. Petitioner also states that petitions for *inter partes* review have been filed regarding other related patents. *Id.* The '154 patent is also the subject of another *inter partes* review: IPR2016-00151 (and IPR2016-01071, joined therewith). In IPR2016-0151, we have issued a Final Written Decision, under 35 U.S.C. § 318(a), concurrently with the instant Final Written Decision.

B. INSTITUTED GROUNDS

We instituted *inter partes* review of claim 1–8, 10, and 11 ("the challenged claims") based on the following specific grounds:

[5] A transcript of the oral hearing is entered in the record as Paper 60 ("Tr.").

Reference[s]	Basis	Claims challenged
Khazan[6] and Sirer[7]	35 U.S.C.§ 103	1–5
Khazan, Sirer, and Ben-Natan[8]	35 U.S.C. § 103	6–8, 10, and 11

Petitioner supports its contentions of unpatentability with declarations from Dr. Aviel Rubin. Ex. 1002 ("Aviel Declaration"); Ex. 1045 ("Supp. Aviel Declaration"). Patent Owner supports its contentions with a declaration from Dr. Nenad Medvidovic. Ex. 2002 ("Medvidovic Declaration"). The cross-examinations of Dr. Rubin and Dr. Medvidovic are entered in the record as Exhibits 2005 and 1038, respectively.

C. THE '154 PATENT (EX. 1001)

The '154 patent relates to computer security and, more particularly, to systems and methods for protecting computers against malicious code such as computer viruses. Ex. 1001, 1:7–9, 8:38–40. The '154 patent identifies the components of one embodiment of the system as follows: a gateway computer, a client computer, and a security computer. *Id.* at 8:45–47. The gateway computer receives content from a network, such as the Internet, over a communication channel. *Id.* at 8:47–48. "Such content may be in the form of HTML pages, XML documents, Java applets and other such web content that is generally rendered by a web browser." *Id.* at 8:48–51. A content modifier modifies original content received by the gateway

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[6] Patent Application Pub. No. US 2005/0108562 A1 (Exhibit 1003) ("Khazan").
[7] Sirer et al., *Design and Implementation of a Distributed Virtual machine for Networked Computers* (1999) (Exhibit 1004) ("Sirer").
[8] U.S. Patent No. 7,437,362 B1 (Exhibit 1005) ("Ben-Natan").

computer and produces modified content that includes a layer of protection to combat dynamically generated malicious code. *Id.* at 9:13–16.

D. Illustrative Claim

Challenged claims 1, 4, 6, and 10 are independent, and illustrative claim 1 is reproduced below.

> 1. A system for protecting a computer from dynamically generated malicious content, comprising:
>
> a content processor (i) for processing content received over a network, the content including a call to a first function, and the call including an input, and (ii) for invoking a second function with the input, only if a security computer indicates that such invocation is safe;
>
> a transmitter for transmitting the input to the security computer for inspection, when the first function is invoked; and
>
> a receiver for receiving an indicator from the security computer whether it is safe to invoke the second function with the input.

II. ANALYSIS

A. Claim Interpretation

In an *inter partes* review, claim terms in an unexpired patent are interpreted according to their broadest reasonable construction in light of the specification of the patent in which they appear. 37 C.F.R. § 42.100(b); *Cuozzo Speed Techs., LLC v. Lee*, 136 S. Ct. 2131, 2142–46 (2016). Consistent with that standard, claim terms also are given their ordinary and customary meaning, as would be understood by one of ordinary skill in the art in the context of the entire disclosure. *See In re Translogic Tech., Inc.*, 504 F.3d 1249, 1257 (Fed. Cir. 2007). There are, however, two exceptions to that rule: "1) when a patentee sets out a definition and acts as his own

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