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Plaintiff SOPHOS LTD.

11 **IN THE UNITED STATES DISTRICT COURT**  
12 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
13 **SAN FRANCISCO DIVISION**

14 FINJAN, INC., a Delaware Corporation,  
15 Plaintiff,  
16 v.  
17 SOPHOS INC., a Massachusetts Corporation,  
18 Defendant.

Case No.: 14-CV-01197-WHO

**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 Defendant Sophos, Inc. ("Sophos") 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
CODE-A	potentially malicious executable code
CODE-B	executable wrapper 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. The parties reserve their rights to cite additional supporting evidence based on arguments raised in the claim construction briefs.

U.S. Patent No. 6,154,844			
Claim Term	Claim(s)	Finjan's Proposed Construction	Sophos's Proposed Construction
means for receiving a Downloadable	43	Governed by 35 U.S.C. § 112(6):  <b>Function:</b> receiving a Downloadable  <b>Structure:</b> Downloadable file interceptor	Indefinite
means for generating a first Downloadable security profile that identifies suspicious code in the received	43	Governed by 35 U.S.C. § 112(6):  <b>Function:</b> generating a first Downloadable security profile that identifies suspicious code	Indefinite

U.S. Patent No. 6,154,844			
Claim Term	Claim(s)	Finjan's Proposed Construction	Sophos's Proposed Construction
Downloadable		in the received Downloadable  <b>Structure:</b> content inspection engine	
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):  <b>Function:</b> linking the first Downloadable security profile to the Downloadable before a web server makes the Downloadable available to web clients  <b>Structure:</b> content inspection engine	Indefinite

U.S. Patent No. 7,613,918			
Claim Term	Claim(s)	Finjan's Proposed Construction	Sophos's Proposed Construction
CODE-C	12, 22	combined code	combined code created at the gateway computer
security context	12, 22	No construction necessary	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

U.S. Patent No. 7,613,926			
Claim Term	Claim(s)	Finjan's Proposed Construction	Sophos's Proposed Construction
database	22	a collection of interrelated data organized according to a database schema to serve one or more applications	no construction necessary

U.S. Patent No. 8,566,580			
Claim Term	Claim(s)	Finjan's Proposed Construction	Sophos's Proposed Construction
certificate creator	1	No construction necessary	security gateway component that creates a signed certificate for attributes of a server certificate
protocol appender	1	No construction necessary	an apparatus that appends certificate attributes within a protocol request

U.S. Patent No. 8,677,494			
Claim Term	Claim(s)	Finjan's Proposed Construction	Sophos's Proposed Construction
database	1, 10	a collection of interrelated data organized according to a database schema to serve one or more applications	No construction necessary

### III. PATENT L.R. 4-3(c): IDENTIFICATION OF MOST SIGNIFICANT TERMS.

#### FINJAN'S STATEMENT:

Finjan does not consider any of the disputed terms significant or case or claim dispositive.

#### SOPHOS'S STATEMENT:

Sophos believes the terms the following terms are significant because their indefiniteness invalidates their respective claims:

- “means for receiving a Downloadable” - '844 patent (claim 43)
- “means for generating a first Downloadable security profile that identifies suspicious code in the received Downloadable” - '844 patent (claim 43)
- “means for linking the first Downloadable security profile to the Downloadable before a web server makes the Downloadable available to web clients” - '844 patent (claim 43).

**IDENTIFICATION OF 8 CLAIM TERMS FOR CLAIM CONSTRUCTION BRIEFING:**

The parties select the following 8 terms for briefing:

No.	Patent(s)	Term
1.	'844: 43	means for receiving a Downloadable
2.	'844: 43	means for generating a first Downloadable security profile that identifies suspicious code in the received Downloadable
3.	'844: 43	means for linking the first Downloadable security profile to the Downloadable before a web server makes the Downloadable available to web clients
4.	'918: 12, 22	security context
5.	'918: 12, 22	CODE-C
6.	'926: 22 '494: 1, 10	database
7.	'580: 1	certificate creator
8.	'580: 1	protocol appender

**IV. PATENT L.R. 4-3(d): TIME FOR CLAIM CONSTRUCTION HEARING.**

The parties anticipate that they will not require more than 4 hours for the entire claim construction hearing.

**V. PATENT L.R. 4-3(e): WITNESSES AT CLAIM CONSTRUCTION HEARING.****Finjan's Statement:**

Finjan intends to offer a declaration and may present live witness testimony from Dr. Nenad Medvidovic, University of Southern California, 941 Bloom Walk, Los Angeles, CA 90089, to support Finjan's claim construction positions. Furthermore, Dr. Nenad Medvidovic will offer an opinion regarding the definiteness of the claims. Finjan may also present live testimony from Dr. Nenad Medvidovic in conjunction with a tutorial of the technology.

**Sophos's Statement:**

Sophos may offer a declaration and present live testimony from Paul Clark, SecureMethods Inc., 4705 Broad Brook Drive, Bethesda, MD 20814, to support Sophos's claim constructions. Mr. Clark will additionally testify regarding the indefiniteness of Finjan's patents.

Respectfully submitted,

Dated: October 14, 2014

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In accordance with Civil Local Rule 5-1(i)(3), I attest that concurrence in the filing of this document has been obtained from any other signatory to this document.

By: /s/ James Hannah  
James Hannah