UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

IN RE: TAASERA LICENSING LLC, PATENT LITIGATION	CIVIL ACTION NO. 2:22-MD-03042-JRG
	JURY TRIAL DEMANDED
THIS DOCUMENT RELATES TO ALL CASES	

JOINT CLAIM CONSTRUCTION AND PREHEARING STATEMENT

In accordance with Patent Local Rule 4-3, Plaintiff Taasera Licensing LLC and Defendants Check Point Software Technologies Ltd. ("Check Point"), Trend Micro Inc. ("Trend Micro"), Fortinet, Inc. ("Fortinet"), Musarubra US LLC, d/b/a Trellix ("Trellix"), Palo Alto Networks, Inc. ("PAN"), and CrowdStrike, Inc. and CrowdStrike Holdings, Inc ("CrowdStrike") (collectively "Defendants") jointly submit this Joint Claim Construction and Prehearing Statement setting for the parties' proposed constructions for the herein identified terms, phrases, or clauses of U.S. Patent Nos. 6,842,796 ("the '796 Patent"); 7,673,137 ("the '137 Patent"); 8,127,356 ("the '356 Patent"); 8,327,441 ("the '441 Patent"); 8,819,419 ("the '419 Patent"); 8,850,517 ("the '517 Patent"); 8,955,038 ("the '038 Patent"); 8,990,948 ("the '948 Patent"); 9,071,518 ("the '518 Patent"); 9,092,616 ("the '616 Patent"); 9,118,634 ("the '634 Patent"); 9,608,997 ("the '997 Patent"); 9,628,453 ("the '453 Patent"); 9,860,251 ("the '251 Patent"); and 9,923,918 ("the '918 Patent") (collectively the "Patents-in-Suit").

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I. Agreed Constructions (P.R. 4-3(a)(1))

The parties have agreed on the construction of the claim terms in the table below.

Claim Term(s), Phrase(s), or Clause(s)	Agreed Construction
"pre-execution monitor" "pre-execution module" '137 Patent Claims 1-3	"pre-execution module"
"runtime" '441 Patent Claims 1, 2, and 5 '517 Patent Claims 1, 10, 13, and 22 '948 Patent Claims 1 and 5	'441/'948 Patents: "the time the application is running" '517 Patent: "the time the application program is running"
"at runtime" '441 Patent Claim 1	preamble limiting at least as to "at runtime"; meaning "at the time the application is running"
"encrypting, the computer, the URL contained in the resource request" '419 Patent Claim 1	"encrypting, by the computer, the URL contained in the resource request"
"third party network endpoint assessments" '616 Patent Claims 1, 2, and 4	"at least two assessments of a network endpoint provided by one or more third parties"

The parties will continue working together to narrow the number of disputed claim terms.

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II. Disputed Claim Terms, Phrases, or Clauses (P.R. 4-3(a)(2))

The parties' proposed constructions of each disputed claim term, phrase, or clause of the Asserted Patents are set forth below.[1] Identification of evidence that supports these constructions is attached as Exhibit 1. Each party reserves the right to cite to intrinsic and/or extrinsic evidence cited by the other party.

#	Claim Term(s), Phrase(s), or Clause(s)	Taasera's Proposed Construction	Defendants' Proposed Construction
1	"regularly identifiable expression" / "regular expression" '796 Patent Claim 1	matchable pattern	Plain and ordinary meaning of "regular expression"
2	"if the new program is validated, permitting the new program to continue loading and to execute in connection with the computing device;" '137 Patent Claims 6, 13, 14, and 24	Plain and ordinary meaning	If the new program is (validated, claims 6, 13; the same as the allowed program, claims 14, 24), then it is not monitored while it (loads and executes in connection with the computing device, claims 6, 13; executes on the computing device, claims 14 and 24)
3	"an execution module coupled to the detection module and operable for monitoring, at the	Subject to 112 p. 6	Means plus function Function:

[1] The claim constructions proposed herein are being provided by Defendants in one document in view of the fact that the cases are joined in Multi-District-Litigation Case No. 2:22-md-03042-JRG. Each term and proposed construction represents the Patent Rule 4-3 Claim Construction disclosure for at least one Defendant part of the Multi-District-Litigation Case No. 2:22-md-03042-JRG. Claim construction discovery is still ongoing. Therefore, each Defendant reserves the right to propose different constructions based on discovery of new evidence relevant to claim construction or upon review of Plaintiff's proposed constructions or any intrinsic and extrinsic evidence disclosed by Plaintiff in its Patent Rule 4-3 disclosures.

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	operating system kernel of the computing device, the program in response to the trigger intercepted by the detection module" '137 Patent Claim 1	Structure: Software algorithm that performs the steps of FIG. 6 Function: monitoring, at the operating system kernel of the computing device, the program in response to the trigger intercepted by the detection module	monitoring, at the operating system kernel of the computing device, the program in response to the trigger intercepted by the detection module Algorithm: Indefinite. Alternatively: If the program was not validated, then monitor the nonvalidated program in response to triggers while the program is executing.
4	"network administration traffic" '356 Patent Claims 1, 2, 9, 10, 13, 14, 17, and 18	traffic generated by harmless network administration activities	Indefinite
5	"[third/fourth] program instructions to determine if the packet is network administration traffic" '356 Patent Claims 1, 9, 10, 13, and 17	Subject to 112 p. 6 Structure: Software algorithm that performs the steps of FIG. 7 Function: determine if the packet is network administration traffic	Subject to 112(6). Function: determine if the packet is network administration traffic Structure: indefinite
6	"attestation" '441 Patent Claims 1, 2, 3, 5, and 7 '616 Patent Claim 1	verification	verifying/verifies the identity of an application
7	"runtime" '616 Patent Claim 1	the time the system or device is running	the time the application being monitored is running.
8	"at runtime" '616 Patent	at the time the system or device is running	Preamble limiting, at least as to "at runtime"; meaning: "at the time the application

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	Claim 1		being monitored is running.”
9	“a computing platform comprising a network trust agent” ’616 Patent Claim 1	Plain and ordinary meaning	Limiting preamble; indefinite
10	“receiving … a runtime execution context indicating attributes of the application at runtime, wherein the attributes comprise one or more executable file binaries of the application and loaded components of the application” ’441 Patent Claims 1 and 4	Plain and ordinary meaning subject to the construction of “runtime”	Receiving at the time the relevant program is running an execution context that includes the executable file binaries of the application (as distinct from binary hashes) and loaded components of the application
11	“a security context providing security information about the application” ’441 Patent Claims 1, 4, and 5	Plain and ordinary meaning	security information about the application provided by a collaboration service
12	“an application artifact” ’441 Patent Claim 2	Plain and ordinary meaning	data identifying one or more attribute value assertions that describe the application runtime execution context
13	“introspective security context” ’441 Patent Claims 4 and 5	Plain and ordinary meaning	a security context based on evaluation of historic state information and measurements [of the remote computing platform] sampled over a period of time; Otherwise, Indefinite.
14	“the application of the restriction of the user's transaction”	Plain and ordinary meaning	Indefinite.

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	’441 Patent Claim 11		
15	“return URL” ’419 Patent Claims 1, 3, 4, 6, 7, 9, 10, 12, 13, 15, 16, and 19 ’634 Patent Claims 1, 3, 4, 5, 6, and 8 ’251 Patent Claims 1-6, and 8-10 ’453 Patent Claims 1, 5, 6, 10-12, and 16-18	Plain and ordinary meaning	a new URL for the requested resource that is returned to the requestor’s web browser
16	“evaluating[, by the computer,] the URL to determine whether encryption of [none, part, or all of]the URL is required” ’419 Patent Claims 1, 4, 10, 13, and 17 ’634 Patent Claims 1 and 4	Plain and ordinary meaning	deciding[, by the computer,] whether encryption should be performed on [none, part, or all] of the URL
17	“determining, by the computer, whether encryption is required for none, part, or all of a return URL” / “determining[, by the computer,] whether encryption of a return URL of the requested resource is required” / “determining, by the computer, whether	Plain and ordinary meaning	deciding[, by the computer,] [whether / that] encryption should be performed on [none, part, or all of] a return URL / deciding[, by the computer,] whether encryption should be performed on a return URL of the requested resource /

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	encryption of a return URL of the requested resource is required” / “determining by the computer, [whether/that] encryption of the contained URL [is/is not] required” / “determining, by the computer, that encryption of the return URL is required” / “determining, by the computer, whether encryption of the contained URL is required” / “determine that encryption of the URL is not required” / “determining by the computer, that encryption of the return URL is not required” ’419 Patent Claims 1, 4, 13, and 19 ’634 Patent Claims 1 and 4 ’251 Patent Claims 1-6 and 8-10 ’453 Patent Claims 1, 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, and 18		deciding, by the computer, whether encryption should be performed on the contained URL / deciding, by the computer, that encryption [should / should not] be performed on the contained URL / deciding, by the computer, that encryption should be performed on the return URL / deciding[, by the computer,] that encryption should not be performed on the [return] URL
18	“determining whether encryption of none, part, or all of a return URL of the requested resource that	Plain and ordinary meaning	Indefinite ’419 Patent, Claim 10

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	is to be returned to a location of the resource request" '419 Patent Claim 10		
19	"determining[, by the computer,] whether the URL of the requested resource is required" '419 Patent Claims 2 and 11 '634 Patent Claim 2	Plain and ordinary meaning	Indefinite
20	"compliance state of the endpoint" '038 Patent Claims 1,12, and 23 '997 Patent Claims 1, 11, and 21 '918 Patent Claims 1, 9, and 17	Plain and ordinary meaning	level of compliance by the endpoint with compliance policy thresholds
21	"compliance polic[y/ies]" '038 Patent Claims 1,12, and 23 '997 Patent Claims 1, 11, and 21 '918 Patent Claims 1, 9, and 17	Plain and ordinary meaning Alternatively: polic[y/ies] for controlling the operation of a computing system in response to a security condition	the items on an endpoint to monitor, the analysis methods to use, and the permitted thresholds for the monitored items
22	"real-time" "real time" '948 Patent Claims 1 and 2	"without intentional delay, given the processing limitations of the system"	immediate
23	"substantially real time"/ "substantially real-time data"	"without intentional delay, given the processing limitations of the system"	Indefinite.

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	’518 Patent Claims 1, 10, and 17		
24	“which includes a network analyzer, an integrity processor, an event correlation matrix, a risk correlation matrix, and a trust supervisor” ’948 Patent Claim 1	Plain and ordinary meaning	Indefinite
25	“operational integrity of the application” ’948 Patent Claim 1	Plain and ordinary meaning	the level of threat or contextual trustworthiness of the application
26	“an event correlation matrix” ’948 Patent Claim 1	Plain and ordinary meaning	“A matrix which maps integrity warnings to endpoint events, and the rows or columns represent an application instance on the monitored system.”
27	“a risk correlation matrix” ’948 Patent Claim 1	Plain and ordinary meaning	“A matrix which maps endpoint events to system warning classes, system warnings, and/or integrity warnings, and the rows or columns represent a machine identifier or application instance identifier of the monitored system.”
28	“correlating, by the event and risk correlation matrix” ’948 Patent Claim 1	Plain and ordinary meaning	Indefinite
29	“the event and behavior correlation engine” ’948 Patent	Plain and ordinary meaning	Indefinite

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	Claim 3		
30	"formatting the status information"/ "the … data is formatted" '518 Patent Claims 1, 10, and 17	Plain and ordinary meaning	formatting: parsing and normalizing device information for uniformity across platforms
31	"initiating… at least one action" / "initiate an action" '518 Patent Claims 1, 10, and 17	Plain and ordinary meaning	Initiating: automatically causing to begin in real time

III. Claim Construction Briefing and Hearing (P.R. 4-3(a)(3), P.R. 4-3(a)(4))

A. Length of Time for the Hearing

The parties anticipate that the claim construction hearing will run about four hours in length.

B. Witnesses

The parties do not anticipate calling any witnesses at the Markman hearing in support of the parties' respective claim construction arguments.

IV. Other Issues (P.R. 4-3(a)(5))

A. The number of pages for claim construction briefing.

The parties request fifteen additional pages for their respective briefing, where Plaintiff will get ten additional pages for its opening claim construction brief, Defendants will get fifteen additional pages for their responsive claim construction brief, and Plaintiff will get five additional pages for its reply brief. The parties believe the increase in pages is warranted here because there are fifteen asserted patents across nine different patent families, with five Defendant groups in this

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MDL litigation. Moreover, certain of the asserted patents are only asserted against a subset of the Defendants, complicating coordination efforts among the Defendants.

Dated: July 13, 2023

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on July 13, 2023, a true and correct copy of the above and foregoing document has been served on all counsel of record who are deemed to have consented to electronic service via the Court's CM/ECF system per Local Rule CV-5(a)(3).

/s/ Alfred R. Fabricant
Alfred R. Fabricant

CERTIFICATE OF CONFERENCE

The undersigned hereby certifies that Plaintiff's counsel has met and conferred with counsel for Defendant, and all parties have agreed to the submission of the P.R. 4-3 Claim Construction and Prehearing Statement submitted herewith.

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