

EX 1023

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12 **UNITED STATES DISTRICT COURT**
13 **NORTHERN DISTRICT OF CALIFORNIA**
14 **OAKLAND DIVISION**

15
16 NETSKOPE, INC.,

17 Plaintiff and Counterclaim
Defendant,

18 v.

19 FORTINET, INC.,

20 Defendant and Counterclaim
21 Plaintiff.

Case No. 4:25-cv-02360-HSG

**THE PARTIES' AMENDED JOINT
CLAIM CONSTRUCTION AND
PREHEARING STATEMENT**

Pursuant to Patent Local Rule (“P.L.R.”) 4-3 of the United States District Court for the Northern District of California, Plaintiff Netskope, Inc. (“Plaintiff” or “Netskope”) and Defendant Fortinet, Inc. (“Defendant” or “Fortinet”) provide the following Joint Claim Construction and Prehearing Statement concerning U.S. Patent Nos. 8,356,336 (the “’336 Patent”), 8,543,710 (the “’710 Patent”), 8,117,639 (the “’639 Patent”), 8,224,983 (the “’983 Patent”), 8,327,426 (the “’426 Patent”), 7,593,936 (the “’936 Patent”), 8,661,153 (the “’153 Patent”), and 8,635,697 (the “’697 Patent”).

A. The Construction of Terms on Which the Parties Agree (P.L.R. 4-3(a))

The parties have not agreed to any specific constructions.

B. Proposed Construction of Disputed Terms (P.L.R. 4-3(b))

The parties’ proposed constructions of disputed terms along with the supporting evidence upon which the parties intend to rely are set forth in Exhibit A attached hereto.

C. Identification of Most Significant and Dispositive Terms (P.L.R. 4-3(c))

The parties agree that the following terms should be included in the most significant terms:

1. “shared network” (’336 Patent, claims 1-2, 4, 6-9, 11, 13-17, 20)
2. “generating an alert” (’697 Patent, claims 1, 15, 24)
3. “proxy for access sessions to the other services” (’426 Patent, claim 1)
4. “snapshots” (’936 Patent, claims 1, 7-8, 12, 21-22)
5. “service provider network” (’697 Patent, claims 1, 15, 24-25)

Pursuant to P.R. 4-3, the parties are supposed to “evenly divide the remainder with each party identifying what it believes are the remaining most significant terms.”

Netskope’s Additional Terms:¹

¹ Pursuant to the Court’s order following the December 9, 2025 Case Management Conference (Dkt. 116), Netskope dropped without prejudice the following claims: the ’936 Patent, claims 3-4, 14-15; the ’697 Patent, claims 9, 21; and all asserted claims for U.S. Patent No. 8,397,282. *See* Dkts. 118, 120. As a result of Netskope’s case-narrowing efforts, two of Netskope’s previously proposed terms for construction were removed. Fortinet agrees that Netskope’s third and final additional term, “service provider network,” is among the identification of most significant and dispositive terms. Accordingly, Netskope no longer proposes any additional terms for construction. Of the ten terms to be briefed, *all ten stem from Fortinet’s challenges*—meaning Fortinet has effectively already received double the number of claim terms for construction.

Fortinet's Additional Terms:²

6. "A network access gateway device," ('710 Patent, claim 15)
7. "arbitrary number of attributes" ('153 Patent, claims 1, 10, 15)
8. "principal believing interactions are with the external service" ('426 Patent, claim 1)
9. "anomaly" ('936 Patent, claims 1-2, 10, 12-13, 18)
10. "subordinate to" ('710 Patent, claims 1, 6, 8, 13, 15, 20)

D. Length of Time for Claim Construction Hearing (P.L.R. 4-3(d))

Under the Court's Scheduling Order (Dkt. 104), the Claim Construction Hearing is currently set for February 6, 2026 at 10:00 a.m. The parties anticipate needing no more than 90 minutes per side for the Claim Construction Hearing, consistent with the Court's Patent Standing Order. The parties agree that, unless the Court prescribes a format for the presentation at the Claim Construction Hearing, the parties shall meet and confer no later than thirty (30) days prior to the Claim Construction Hearing to discuss and finalize how they will make their presentations.

E. Witnesses to be Called at the Claim Construction Hearing (P.L.R. 4-3(e))

Neither party currently plans to call any witnesses at the Claim Construction Hearing. Netskope reserves the right to call Dr. Striegel at the hearing if new issues emerge over the course of the claim construction briefing or if the Court wishes to hear testimony from Dr. Striegel. Fortinet reserves the right to object to such testimony from Dr. Striegel.

² At the December 9, 2025 Case Management Conference (Dkt. 116), the Court suggested that Netskope either identify representative claims or otherwise narrow the case scope, recognizing that Fortinet's motion for additional terms was a symptom of Netskope asserting 176 claims across 9 patents. In response, Netskope withdrew 1 of the 9 asserted patents and 41 of the 176 asserted claims without prejudice. In doing so, Netskope limited the prospective terms identified for construction to a subset of those originally identified in Fortinet's top-15 disputed claim terms. Fortinet therefore agrees to withdraw its motion for additional terms, while noting that Netskope is still asserting 135 claims across 8 patents and there are more than 10 disputed terms. *See Exhibit A.* Additional claim construction disputes may arise after Netskope complies with Fortinet's outstanding request that Netskope amend its deficient infringement contentions. Fortinet reserves the right to raise additional claim construction disputes—including any created by Netskope's amendments to its infringement contentions, or any other developments in the case—at a later date pursuant to *O2 Micro Intern. Ltd. v. Beyond Innovation Technology Co.*, 521 F. 3d 1351 (Fed. Cir. 2008).

1 The parties intend to present a summary and explanation of the technology at the
2 Technology Tutorial, which the parties agree to limit to 45 minutes per side consistent with the
3 Court's Patent Standing Order.

4 **F. Identification of Factual Findings Requested from the Court (P.L. R. 4-3(f))**

5 The parties do not request any factual findings related to claim construction from the Court.
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1 DATED: December 30, 2025

Respectfully Submitted,

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Attorneys for Fortinet, Inc.

FILER'S ATTESTATION

I, Kyle R. Canavera, am the ECF User whose ID and password are being used to file this Joint Claim Construction and Prehearing Statement. In compliance with Civil Local Rule 5-1, I hereby attest that Ryan Iwahashi, counsel for Fortinet, Inc., has concurred in this filing.

Dated: December 30, 2025

By: /s/ Kyle R. Canavera
Kyle R. Canavera

EXHIBIT A

EXHIBIT A

No.	Claim Language	Netskope's Proposed Constructions	Fortinet's Proposed Constructions
<i>'336 Patent</i>			
1	“shared network” Found in asserted claim numbers: 1-2, 4, 6-9, 11, 13-17, 20	Plain and ordinary meaning. INTRINSIC EVIDENCE '336 Patent at Abstract, 1:26-2:59, 3:14-4:14 4:15-6:25, FIGS. 1-3 (and associated text). EXTRINSIC EVIDENCE Microsoft Computer Dictionary, Fifth Edition (Microsoft Press 2002).	“a local network to which an unauthenticated user has access” INTRINSIC EVIDENCE Provisional application 60/551,705. '336 Patent at FIGs. 1 and 2 and corresponding portions of the specification; 1:34-47; 1:56-62; 2:7-19; 2:24-31; 2:47-59; 4:15-22; 4:38-5:39; 5:40-6:16; 6:29-39; 7:24-26; 7:30-41; 8:27-33; 8:39-48.
2	“authentication token” Found in asserted claim numbers: 5-7, 12-14, 19-20	Plain and ordinary meaning. INTRINSIC EVIDENCE '336 Patent at 1:8-30, 1:66-2:59, 3:14-4:14, 4:18-5:23, 5:24-6:16, FIG. 3 (and associated text). EXTRINSIC EVIDENCE Microsoft Computer Dictionary, Fifth Edition (Microsoft Press 2002).	“unique sequence of characters that are valid for use within the query portion of a URL to redirect a client to an authentication screen” INTRINSIC EVIDENCE US 7,665,130 at 6:34-40. US Provisional Appl. 60/551,705. '336 Patent at 2:31-40; 6:1-16; 7:4-23; 8:1-26; 9:13-10:15.

No.	Claim Language	Netskope's Proposed Constructions	Fortinet's Proposed Constructions
<i>'710 Patent</i>			
3	“subordinate to” Found in asserted claim number: 1, 6, 8, 13, 15, 20	Plain and ordinary meaning. INTRINSIC EVIDENCE '710 Patent at 2:47-4:12, 4:22-5:10, 5:11-6:28, FIGS. 1-2 (and associated text). EXTRINSIC EVIDENCE Testimony of Aaron D. Striegel on how a person of ordinary skill in the art would have understood this term in light of the claims, specification, prosecution history, and any pertinent extrinsic evidence.	indefinite INTRINSIC EVIDENCE: '710 Patent 3:40-55; claims 1, 6, 8, 13, 15, 20
4	“A network access gateway device” Found in asserted claim number: 15	Plain and ordinary meaning. INTRINSIC EVIDENCE '710 Patent at 1:58-2:19, 2:41-3:55, 4:3-6:7, FIG. 1 (and associated text).	Preamble is limiting INTRINSIC EVIDENCE: '710 Patent, 5:65-6:4, May 15, 2013 Applicant Arguments/Remarks Made in an Amendment, '710 Prosecution History.
<i>'639 Patent</i>			
5	“global stage” Found in asserted claim number: 3, 12, 19	Plain and ordinary meaning. INTRINSIC EVIDENCE '639 Patent at 8:6-24, 10:19-28, 10:52-55.	“one or more rules applied to all packets processed by the network gateway device” OR plain and ordinary meaning INTRINSIC EVIDENCE: '639 Patent 10:52-55
<i>'426 Patent</i>			

No.	Claim Language	Netskope's Proposed Constructions	Fortinet's Proposed Constructions
6	“proxy for access sessions to the other services” Found in asserted claim number: 1	Plain and ordinary meaning. INTRINSIC EVIDENCE '426 Patent at Abstract, 1:59-3:7, 3:22-5:25, 5:43-6:57, 7:19-8:67, 9:1-10:11, 10:12-11:37, FIGS. 1-5 (and associated text).	“proxy for all communications to the other services” INTRINSIC EVIDENCE: '426 Patent at Abstract, 1:11-25, 2:22-26, 2:36-39, 3:17-21, 3:54-61, 5:4-7, 5:43-47, 5:63-6:3, 6:11-14, 10:12-11:10; cl. 1-2, 8, 10, 12-14, 16-17, FIGs. 1-3, 5, November 24, 2009 Applicant Remarks, '426 Patent File History, at 1-2. March 25, 2010 Final Rejection, '426 Patent File History, at 7-8.
7	“principal believing interactions are with the external service” Found in asserted claim number: 1	Plain and ordinary meaning. INTRINSIC EVIDENCE '426 Patent at Abstract, 3:35-5:25, 6:31-5:52, 7:59-8:67, 9:10-10:6, FIGS. 1-3 (and associated text). EXTRINSIC EVIDENCE Testimony of Aaron D. Striegel on how a person of ordinary skill in the art would have understood this term in light of the claims, specification, prosecution history, and any pertinent extrinsic evidence.	indefinite INTRINSIC EVIDENCE: '426 Patent at 4:11-16, cls. 1, 14
<i>'936 Patent</i>			
8	“snapshots” Found in asserted claim numbers: 1, 7-8, 12, 21-22	Plain and ordinary meaning.	“the state of a machine based on an examination of all system files, designated application files, the registry, performance

No.	Claim Language	Netskope's Proposed Constructions	Fortinet's Proposed Constructions
		INTRINSIC EVIDENCE '936 Patent at Abstract, 3:42-61, 4:49-6:32, 7:14-59, 8:63-9:36, 11:1-12:28, 13:22-15:23, 16:44-18:2, 18:40-19:16, 18:50-20:13, 20:62-21:27, FIGS. 6-10, 13 (and associated text).	counters, processes, services, communication ports, hardware configuration, and log files at a given point in time" INTRINSIC EVIDENCE '936 Patent at 5:36-48; 6:22-32, 41-44; 8:63-9:9; 13:31-38. EXTRINSIC EVIDENCE Dictionary of Computing, S.M.H Collin, Fifth Edition, pg. 308 McGraw-Hill Dictionary of Scientific and Technical Terms, Sixth Edition at pg. 1958 Wiley Electrical and Electronics Engineering Dictionary, Steven M, Kaplan, IEEE Press, pg. 720
9	"normal state" Found in asserted claim numbers: 1, 12	Plain and ordinary meaning. INTRINSIC EVIDENCE '936 Patent at 2:57-3:38, 6:64-7:45, 8:30-39, 8:63-9:23, 12:7-13:21, 13:48-14:15, 15:24-16:5, 19:8-26, 19:50-62, 20:40-67, 22:10-19.	"a state of the computers within the population that is absent undesirable changes or an unexpectedly present asset, an unexpectedly absent asset, or an asset that has an unknown value" INTRINSIC EVIDENCE: 7:15-21; 22:11-20 Decision on Appeal Before The Board of Patent Appeals and Interferences,

No.	Claim Language	Netskope's Proposed Constructions	Fortinet's Proposed Constructions
			dated July 14, 2009, at pgs. 6, 9
10	“abnormal state” Found in asserted claim numbers: 1, 12	Plain and ordinary meaning. INTRINSIC EVIDENCE '936 Patent at 2:32-3:7, 6:16-7:59, 21:62-22:32.	“a state of the computers within the population that contains undesirable changes or an unexpectedly present asset, an unexpectedly absent asset, or an asset that has an unknown value” INTRINSIC EVIDENCE: 7:15-21; 22:11-20 Decision on Appeal Before The Board of Patent Appeals and Interferences, dated July 14, 2009, at pgs. 6, 9.
11	“anomaly” Found in asserted claim numbers: 1-2, 10, 12-13, 18	Plain and ordinary meaning. INTRINSIC EVIDENCE '936 Patent at 3:41-62, 8:4-9:36, 10:47-11:33, FIGS. 3, 6, 7, 9, 10 (and associated text).	“an undesirable changes or an unexpectedly present asset, an unexpectedly absent asset, or an asset that has an unknown value” INTRINSIC EVIDENCE: 7:60-8:29 Decision on Appeal Before The Board of Patent Appeals and Interferences, dated July 14, 2009, at pg. 6.
12	“value layer” Found in asserted claim numbers: 9	Plain and ordinary meaning.	“component of the adaptive reference model that tracks the values of assets and determines whether any asset value in the snapshot violates a violates a statistically significant

No.	Claim Language	Netskope's Proposed Constructions	Fortinet's Proposed Constructions
		INTRINSIC EVIDENCE '936 Patent at 10:32-11:56, FIG. 4 (and associated text).	pattern of asset values within the managed population" INTRINSIC EVIDENCE: 10:33-67
13	"cluster layer" Found in asserted claim numbers: 10	Plain and ordinary meaning. INTRINSIC EVIDENCE '936 Patent at 10:29-46, 11:47-12:28, FIG. 4 (and associated text).	"component of the adaptive reference model that tracks the values of assets and determines whether any asset value in the snapshot violates a statistically significant pattern of asset values within the managed population" <u>Intrinsic Evidence</u> 10:33-67
14	"profile layer" Found in asserted claim numbers: 11	Plain and ordinary meaning. INTRINSIC EVIDENCE '936 Patent at 10:29-35, 12:7-28, FIG. 4 (and associated text).	"component of the adaptive reference model that detects anomalies based on strong associative and exclusionary relationships between clusters, that would not otherwise be detectable by other layers or lower levels" INTRINSIC EVIDENCE: 10:33-36; 12:7-28
<i>'153 Patent</i>			
15	"arbitrary number of attributes" Found in asserted claim numbers: 1, 10, 15	Plain and ordinary meaning. INTRINSIC EVIDENCE '153 Patent at 2:32-60, 5:24-63, 7:22-37, 7:56-8:10, 8:52-62.	Indefinite INTRINSIC EVIDENCE: '153 Patent at 2:36-38, 2:51-53, cls. 1, 10, 15

No.	Claim Language	Netskope's Proposed Constructions	Fortinet's Proposed Constructions
		EXTRINSIC EVIDENCE Testimony of Aaron D. Striegel on how a person of ordinary skill in the art would have understood this term in light of the claims, specification, prosecution history, and any pertinent extrinsic evidence.	November 18, 2013 Amendments And Response To Office Action, '153 Patent File History, at 2-5, 8-9.
<i>'697 Patent</i>			
16	“service provider network” Found in asserted claim numbers: 1, 15, 24-25	Plain and ordinary meaning. INTRINSIC EVIDENCE '697 Patent at Abstract, 1:52-2:43, 3:8-47, 4:10-5:4, 9:53-10:27, FIGS. 1, 8 (and associated text).	“internet service provider network” INTRINSIC EVIDENCE '697 Patent at 3:28-47, 4:10-28, FIG. 1. Applicant Arguments/Remarks made in an Amendment, dated May 30, 2013, at pgs. 8-14.
17	“generating an alert” Found in asserted claim numbers: 1, 15, 24	Plain and ordinary meaning. INTRINSIC EVIDENCE '697 Patent at Abstract, 1:52-2:43, 3:48-4:9, 4:10-5:62, 5:63-6:37, 7:38-9:43, 9:44-10:27, FIGS. 1, 3, 5-8 (and associated text).	“a notification sent by a network sensor” INTRINSIC EVIDENCE '697 Patent at 3:57-4:9; 4:29-41; 5:42-6:13; 7:56-8:49; 9:34-52; Claims 3, 12-13, 17-18. Applicant Arguments/Remarks made in an Amendment, dated May 30, 2013, at pgs. 8-14.