

EXHIBIT A

1 IN THE UNITED STATES DISTRICT COURT

2 IN AND FOR THE DISTRICT OF DELAWARE

3
4 INTELLECTUAL VENTURES I, LLC, : CIVIL ACTION
5 Plaintiff, :
6 v. :
7 CHECK POINT SOFTWARE TECHNOLOGIES LTD., :
8 CHECK POINT SOFTWARE TECHNOLOGIES INC., :
9 McAFEE, INC., SYMANTEC CORP., TREND :
10 MICRO INCORPORATED, and TREND MICRO, :
11 INC. (USA), : NO. 10-1067-LPS
12 Defendants.

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BEFORE: HONORABLE **LEONARD P. STARK**, U.S.D.C.J.

APPEARANCES:

FARNAN, LLP
BY: BRIAN E. FARNAN, ESQ.

and

SUSMAN GODFREY L.L.P.
BY: BROOKE A.M. TAYLOR, ESQ.
(Seattle, Washington)

and

SUSMAN GODFREY L.L.P.
BY: RYAN C. KIRKPATRICK, ESQ.
(Los Angeles, California)

Counsel for Plaintiff

Brian P. Gaffigan
Registered Merit Reporter

1 potentially needing four or five references, well, there are
2 only four patents in suit. So if you needed five references
3 per patent, you would be at 20. There is a very large gulf
4 between 20 and 300, and so we do really believe it's
5 appropriate and proper to ask the defendants to limit it to
6 20. They haven't proposed any number that is somewhere
7 between those.

8 We think 20 is the appropriate number. And if
9 they, after they make their elections, say they need 22 or
10 23, they can come to us and I'm confident we won't be back
11 at the court over a dispute like that.

12 We should have had complete invalidity charts
13 from the defendants in September, and we are here now before
14 the Court in late February not only attempting to get a read
15 on what the invalidity contentions are of the defendants but
16 to ask them to limit them to a reasonable number. And,

17 I think *Stamps.com* does address the issue of
18 them working with us and then, if necessary, with the Court
19 to come back to broaden that limit, if that is appropriate.

20 THE COURT: Okay.

21 MR. ROBERTS: Your Honor, if I could just
22 correct one thing I said earlier? I apologize. I made an
23 error.

24 When you are talking about system prior art,
25 it's 102(e), not 102(b), so the one year limit doesn't apply

1 and yes, in fact, they can go more than a year. I apologize,
2 I gave you wrong information.

3 THE COURT: Thank you for that clarification.

4 With respect to plaintiff's request here, I'm
5 going to grant it in part and deny it in part.

6 Specifically, I am hereby ordering that
7 defendants reduce their prior art references to no more than
8 30 and to do so within 21 days of the plaintiff's reduction
9 of their asserted claims to the 20 as previously ordered by
10 the Court.

11 I believe that is a fair accommodation and a
12 proper exercise of discretion given the parties competing
13 concerns as well as a schedule that has been in place for
14 some time now and the Court's earlier ruling with respect
15 to the plaintiff's election of asserted claims.

16 Let me add, if defendants feel, after they see
17 the plaintiff's 20 asserted claims, they have good cause to
18 seek an increase from the 30 prior art references, then they
19 certainly are free to ask that of the Court. Of course,
20 they need to meet and confer with plaintiff first and see
21 if you all can agree to raise it somewhat from 30, if that
22 turns out to be the defendants' belief.

23 In addition to that, I encourage the parties to
24 figure out if there is a way, given the Court's ruling, to
25 work together to come up with a schedule or a schedule

1 revision, if need be, so that defendants can be held to
2 their representation that they are willing to make their
3 election and to complete their charting of those prior art
4 references that they're going to rely on and to do so before
5 May 4th.

6 So that is the Court's ruling with to the first
7 dispute.

8 Let's turn next to the plaintiff's second
9 issue, which is their request for an order compelling Trend
10 Micro to supplement its validity contentions and to provide
11 noninfringement contentions. We'll hear first from the
12 plaintiff on that on as well.

13 MS. TAYLOR: Thank you, your Honor. I think
14 this issue is part and parcel with the issues we just
15 discussed.

16 As you can see in the samples attached to
17 Exhibit A and sort of excerpts from the defendants'
18 invalidity contentions, there are hundreds of exhibits
19 uncharted and simply listed on which the defendants might
20 reliably be heard that they are investigating these.

21 What we don't want to have happen here is a
22 situation of sandbagging. At the outset of the case -- for
23 a scheduling order, the defendants had asked directly to
24 permit the defendants to delay invalidity contentions until
25 after IV I's infringement contentions were served. The