

1 PAUL ANDRE (State Bar No. 196585)
2 pandre@kramerlevin.com
3 LISA KOBIALKA (State Bar No. 191404)
4 lkobialka@kramerlevin.com
5 JAMES HANNAH (State Bar No. 237978)
6 jhannah@kramerlevin.com
7 KRISTOPHER KASTENS (State Bar No. 254797)
8 kkastens@kramerlevin.com
9 KRAMER LEVIN NAFTALIS
10 & FRANKEL LLP
11 990 Marsh Road
12 Menlo Park, CA 94025
13 Telephone: (650) 752-1700
14 Facsimile: (650) 752-1800
15
16 *Attorneys for Plaintiff*
17 FINJAN, INC.

11
12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14 SAN FRANCISCO DIVISION
15

16 FINJAN, INC.,

17 Plaintiff,

18 v.

19 JUNIPER NETWORKS, INC.,

20 Defendant.
21
22
23
24
25
26
27
28

Case No.: 3:17-cv-05659-WHA

**DECLARATION OF KRISTOPHER
KASTENS IN SUPPORT OF FINJAN,
INC.'S MOTION TO DISMISS
DEFENDANT JUNIPER NETWORKS,
INC.'S THIRD, FOURTH, FIFTH, AND
SIXTH COUNTERCLAIMS AND TO
STRIKE JUNIPER'S TENTH, ELEVENTH,
TWELFTH, AND FOURTEENTH
AFFIRMATIVE DEFENSES**

Date: July 26, 2018
Time: 8:00 a.m.
Courtroom: Courtroom 12, 19th Floor
Judge: Hon. William H. Alsup

1 I, Kristopher Kastens, declare:

2 1. I am an attorney with the law firm Kramer Levin Naftalis & Frankel LLP, counsel of
3 record for Finjan, Inc. ("Finjan"). I have personal knowledge of the facts stated herein and can testify
4 competently to those facts. I make this declaration in support of Finjan, Inc.'s Motion to Dismiss
5 Juniper Networks, Inc.'s ("Juniper") Third, Fourth, Fifth, and Sixth Counterclaims and to Strike
6 Juniper's Tenth, Eleventh, Twelfth, and Fourteenth Affirmative Defense.

7 2. Attached as Exhibit 1 is a true and correct copy of U.S. Patent No. 8,677,494, produced
8 by Finjan bearing bates numbers FINJAN-JN 003821-48.

9 3. Attached as Exhibit 2 is a true and correct copy of U.S. Patent No. 8,141,154, produced
10 by Finjan bearing bates numbers FINJAN-JN 002025-40.

11 4. Attached as Exhibit 3 is a true and correct copy of U.S. Patent No. 7,647,633, produced
12 by Finjan bearing bates numbers FINJAN-JN 000954-83.

13 5. Attached as Exhibit 4 is a true and correct copy of U.S. Patent No. 7,613,926, produced
14 by Finjan bearing bates numbers FINJAN-JN 000618-43.

15 6. Attached as Exhibit 5 is a true and correct copy of excerpts from the prosecution history
16 of the '494 Patent, bates numbered FINJAN-JN 004348-57, FINJAN-JN 004421-23, FINJAN-JN
17 004944-53, and FINJAN-JN 004959-60.

18 7. Attached as Exhibit 6 is a true and correct copy of Plaintiff Finjan, Inc.'s Disclosure of
19 Asserted Claims and Infringement Contentions and Document Production Accompanying Disclosure
20 Pursuant to Patent Local Rules 3-1 and 3-2 from *Finjan, Inc. v. Symantec Corp.*, Case No. 14-cv-
21 02998-RS, dated December 4, 2014.

22 8. Attached as Exhibit 7 is a true and correct copy of Plaintiff Finjan, Inc.'s Preliminary
23 Election of Asserted Claims from *Finjan, Inc. v. Symantec Corp.*, Case No. 14-cv-02998-HSG, dated
24 March 3, 2017.

25 9. Attached as Exhibit 8 is a true and correct copy of Plaintiff Finjan, Inc.'s Fifth
26 Supplemental Responses to Defendant Symantec Corp.'s Interrogatories (No. 1), filed as Exhibit J to
27 the Cassidy Declaration in Support of Symantec's Motion to Amend Its Answer to Add an Inequitable
28

1 Conduct Defense from *Finjan, Inc. v. Symantec Corp.*, Case No. 14-cv-02998-HSG, Dkt. 242-11 (N.D.
2 Cal. Aug. 18, 2017).

3 10. Attached as Exhibit 9 is a true and correct copy of Plaintiff Finjan, Inc.'s Final Election
4 of Asserted Claims, filed as Exhibit H to the Cassidy Declaration in Support of Symantec's Motion to
5 Amend Its Answer to Add an Inequitable Conduct Defense from *Finjan, Inc. v. Symantec Corp.*, Case
6 No. 14-cv-02998-HSG, Dkt. 242-9 (N.D. Cal. Aug. 18, 2017).

7 11. Attached as Exhibit 10 is a true and correct copy of Plaintiff Finjan, Inc.'s Fourth
8 Supplemental Responses to Defendant Symantec Corp.'s Interrogatories (No. 1), filed as Exhibit I to
9 the Cassidy Declaration in Support of Symantec's Motion to Amend Its Answer to Add an Inequitable
10 Conduct Defense from *Finjan, Inc. v. Symantec Corp.*, Case No. 14-cv-02998-HSG, Dkt. 242-11 (N.D.
11 Cal. Aug. 18, 2017).

12 12. Attached as Exhibit 11 is a true and correct copy of the Order Denying Defendant's
13 Motion to Amend Its Answer to Add Inequitable Conduct Affirmative Defense from *Finjan, Inc. v.*
14 *Symantec Corp.*, Case No. 14-cv-02998-HSG, Dkt. 285 (N.D. Cal. Sept. 27, 2017).

15 13. Attached as Exhibit 12 is a true and correct copy of U.S. Patent No. 6,092,194.

16 14. Attached as Exhibit 13 is a true and correct copy of U.S. Patent No. 6,804,780,
17 produced by Finjan bearing bates numbers FINJAN-JN 000443-60.

18 15. Attached as Exhibit 14 is a true and correct copy of U.S. Patent No. 8,079,086.

19 16. Attached as Exhibit 15 is a true and correct copy of U.S. Patent No. 6,154,844,
20 produced by Finjan bearing bates numbers FINJAN-JN 000001-20.

21 17. Attached as Exhibit 16 is a true and correct copy of U.S. Patent Application Serial No.
22 11/281,839, "Ross," IPR2016-00151, Ex. 1003.

23 18. Attached as Exhibit 17 is a true and correct copy of Final Written Decision of the '494
24 Patent in *Palo Alto Networks, Inc. v. Finjan, Inc.*, IPR2016-00159, Paper No. 50 (P.T.A.B. April 11,
25 2017).

1 I declare under penalty of perjury under the laws of the United States that the foregoing is true
2 and correct. Executed on June 15, 2018 in Menlo Park, California.

3
4 /s/ Kristopher Kastens
5 Kristopher Kastens

6
7 **ATTESTATION PURSUANT TO L.R. 5-1(I)**

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

10 /s/ Lisa Kobialka
11 Lisa Kobialka
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28