

# Exhibit L

## Caridis, Alyssa

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**From:** Feeman, Vickie L.  
**Sent:** Friday, September 20, 2019 1:48 PM  
**To:** Xu, Linda; Roberts, Clement; Caridis, Alyssa; Cheever, Frances; Brewer, Evan; Burleigh, Miwako  
**Cc:** Hannah, James; Kobialka, Lisa; Andre, Paul; Kastens, Kris; Manes, Austin  
**Subject:** RE: Finjan v. Check Point - Meet and Confer Summary (9/9/19)

Linda,

1. Mr. Heldshetein's deposition will be in either Orrick's SF or SV office. We will provide a location and the designated topics at least two weeks before the deposition.
2. As we have repeatedly explained, including during the meet and confer, technical depositions are premature until the infringement contentions are set. We do not agree to make witnesses available for all instrumentalities listed in Finjan's infringement contentions as we do not believe that they are all properly accused. We note that any delay in the technical depositions is due to Finjan's refusal to serve contentions that comply with the Local Rules and the repeated orders of this Court. As we have also previously stated, if you would like to depose Itai Greenberg on marketing issues (such as the importance of features, how Check Point sells its products etc.) rather than how the products work, we are willing to schedule his deposition now. However, this will be your one opportunity to depose Mr. Greenberg.
3. I do not understand how the instrumentalities we believe to be in the case is relevant to the written question procedure. In any event, the issue of which instrumentalities we believe are still in the case depends on the outcome of the negotiations regarding Finjan's most recent infringement contentions and the result of any motion to strike. After we have worked through those issues with you, we should be able to identify the instrumentalities we believe should be stricken and the instrumentalities, if any, for which the contentions are proper.
4. I think you misunderstand Fed. R. Civ. P. 34. The "production" required by Fed. R. Civ. P. 34 is to "produce and permit the requesting party or its representative to inspect, copy, test, or sample [any designated documents or electronically stored information or any designated tangible things] in the responding party's possession, custody, or control". 34(a)(1). The responding party has the option to produce copies *instead* of permitting inspection. 34(b)(2)(B) ("The responding party may state that it will produce copies of documents or of electronically stored information instead of permitting inspection.") Nowhere in the rules does it state that the requesting party can demand production of documents instead of inspection. This option is left up to the responding party. Here, given the sensitivity and volume of the requested information, Check Point is willing to discuss making the raw data (which Finjan has never even formally requested in an RFP) available for inspection subject to us reaching agreement. Are you rejecting this offer?
5. We have responded to item 5 separately.
6. We have made progress on working through the Israeli privacy issues and are in the process of running the requested searches. We hope to be able to provide you hit count information sometime next week.

Additionally, this afternoon you will receive a production that includes (1) an IDC communication (bates number CPFIN00033974). We have performed a search for any communications in which Check Point provided financial information to IDC. We could find only this one such communication. (2) the latest company-wide forecast (bates number CPFIN00033972). (3) a corrected version of the bookings/expenses/profits spreadsheet (bates number CPFIN00033973). Note that all of this is AEO information.

Regards, Vickie Feeman

**From:** Xu, Linda

**Sent:** Tuesday, September 17, 2019 3:53 PM

**To:** Feeman, Vickie L. ; Roberts, Clement ; Caridis, Alyssa ; Cheever, Frances ; Brewer, Evan

**Cc:** Hannah, James ; Kobialka, Lisa ; Andre, Paul ; Kastens, Kris ; Manes, Austin

**Subject:** RE: Finjan v. Check Point - Meet and Confer Summary (9/9/19)

Vickie,

1. We accept November 5<sup>th</sup> for Mr. Heldshtein. Please provide a location for his deposition and the topics he is designated for. We understand that Check Point will not seek to limit the scope of his deposition based on its understanding of the accused products.
2. If Check Point agrees to not limit the topics that fact witnesses can discuss, then we agree that only one deposition of each witness will be needed. As these are fact depositions, Check Point would not be obligated to make these witnesses knowledgeable on any subject and they could speak exclusively from their personal knowledge. For a 30(b)(6) witnesses on technical topics, if Check Point agrees to make a witness available for all instrumentalities listed Finjan's identification of Accused Instrumentalities in its current infringement contentions, then we agree that we will only take those witnesses a single time based on those instrumentalities. Confirm if Check Point agrees to this procedure and we can start scheduling deposition dates.
3. Regarding written questions, can you confirm what instrumentalities you believe are still in the case?
4. Contrary to your email below, Check Point has not complied with Judge Spero's order by providing a single summary spreadsheet of financial information, at the very least because this is not how the information was kept in the ordinary course of business and strips out necessary information on when instrumentalities were sold, what other instrumentalities they were sold with, and what price they were sold at. We also find Check Point's statements that it made this summary for Finjan's benefits to be disingenuous, as Finjan specifically stated that it wanted the underlying sales information for the different SKUs sold, not a manipulated summary. See, for example, Dkt. No. 183 at 1:12-22, 3:11-2, 4:5-18. This information was fully under the scope of the RFPs that were before Spero, as parties are not able to avoid production of actual documents and information by creating litigation derived summaries. Regarding the underlying sales information requested, confirm that Check Point will produce this information to Finjan by the end of the week. Check Point has no basis to only make this information available for inspection, and this type of information is routinely exported to spreadsheets as part of litigations. Check Point's conduct to date has been highly prejudicial.
5. Additionally, we sent you an email last week requesting that you clarify a number of the complaints that you have about Finjan's infringement contentions, or provide a time to meet and confer, so we can determine if these issues can be resolved. When will Check Point provide a response?
6. Regarding ESI, we have provided the custodians to you over a month ago (on August 14) and we still haven't received the hit count information. Please provide us a status update.

Linda Xu  
Associate

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**From:** Feeman, Vickie L. <[vfeeman@orrick.com](mailto:vfeeman@orrick.com)>

**Sent:** Monday, September 16, 2019 12:24 PM

**To:** Xu, Linda <[LYu@KRAMERLEVIN.com](mailto:LYu@KRAMERLEVIN.com)>; Roberts, Clement <[croberts@orrick.com](mailto:croberts@orrick.com)>; Caridis, Alyssa <[acaridis@orrick.com](mailto:acaridis@orrick.com)>; Cheever, Frances <[fcheever@orrick.com](mailto:fcheever@orrick.com)>; Brewer, Evan <[ebrewer@orrick.com](mailto:ebrewer@orrick.com)>

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**Subject:** [EXTERNAL] RE: Finjan v. Check Point - Meet and Confer Summary (9/9/19)

Linda,

We'd like to respond to and clarify a couple of points with respect to your summary of the September 9th meet and confer.

1. Mr. Heldshtein is not available on Nov. 4<sup>th</sup>. He is available on either Nov. 5<sup>th</sup> or 6<sup>th</sup>. Please advise which day you prefer to take his deposition.
2. For technical witnesses, given that these witnesses live in Israel, we have been clear that Check Point will not make them available twice for deposition. So if Finjan elects to proceed with a more limited deposition at this time, that will be your one opportunity to depose the witness.
3. We don't understand the comment about Judge Orrick's written question procedure applying to all witnesses. Our understanding is that, if it applies, the written question procedure is akin to a 30(b)(6) deposition in that it is not witness specific. Our understanding of that procedure is that Finjan provides questions to Check Point, and if the questions are appropriate, timely and necessary the parties would meet and confer about how to provide the responsive information – e.g. by Check Point providing written responses. Then, if the parties could not agree, they would submit a five page letter brief to the Court with the relevant questions.
4. With respect to Interrogatory No. 9, we did not agree at the meet and confer that any mapping is "missing," but rather we stated that, as with R80, it may simply be that the code does not map to the accused products. We have looked into this and everything was mapped and any confusion is a result of Finjan's counsels' or experts' misunderstanding. E80.61 is a management release and is fully mapped in our response; this release does not include TE and TX and thus does not map onto threat emulation and threat extraction. E80.71 is a later release that was added to encompass a couple of instrumentalities, such as Anti-Ransomware, that were not released at the time of the prior release. As such, everything is fully mapped; there is no "missing" mapping.
5. With respect to financial information, we did not agree to provide underlying data. Instead, we agreed to check if there was any written documentation as to the methodology used and to provide the *cost* information on a category by category basis. We conferred with our client and the answer is that the methodology does not exist in a pre-existing document. As we explained during the meet and confer, the spreadsheet was based on analyzing a huge amount of data spread across multiple databases and it took Check Point thousands of hours to go through that data and create the spreadsheet we produced. We do not agree that this is unorthodox, but rather that it was the only way to provide the information that Finjan specifically requested for the accused instrumentalities – i.e., documents **sufficient to show** the requested information (i.e., revenue, costs, profits). The information provided was sufficient to show the requested information and thus **fully complied with Finjan's requests**. And Check Point undertook great burden and expense to provide the specific information you requested. Apparently Finjan is now questioning the veracity of the information produced. As we explained, the best way for you to understand and test the veracity of Mr. Heldshtein's methodology is to depose him. We note that had Check Point simply dumped a huge amount of irrelevant and unallocated financial data on Finjan, you likely would have argued that the information provided **was not sufficient to show**

**the revenue, costs and profits of each of the Accused Instrumentalities** and as such did not comply with your requests, and demanded that Check Point provide the allocation. Finally, we note that the burden and expense of producing the extensive and highly sensitive information you appear to be asking for is not proportional to Finjan's need for that discovery as we do not believe this information will be useful. Nonetheless, in the spirit of compromise, and even though Finjan never formally requested this information in an RFP, Check Point is willing to discuss making the raw data available for inspection subject to us reaching agreement. Let us know when you are available to discuss.

Regards, Vickie

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**From:** Xu, Linda <[LXu@KRAMERLEVIN.com](mailto:LXu@KRAMERLEVIN.com)>

**Sent:** Wednesday, September 11, 2019 5:52 PM

**To:** Roberts, Clement <[croberts@orrick.com](mailto:croberts@orrick.com)>; Caridis, Alyssa <[acaridis@orrick.com](mailto:acaridis@orrick.com)>; Cheever, Frances <[fcheever@orrick.com](mailto:fcheever@orrick.com)>; Feeman, Vickie L. <[vfeeman@orrick.com](mailto:vfeeman@orrick.com)>; Brewer, Evan <[ebrewer@orrick.com](mailto:ebrewer@orrick.com)>

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**Subject:** Finjan v. Check Point - Meet and Confer Summary (9/9/19)

Counsel,

Below summarizes our conversation for Monday's meet and confer in our Menlo Park office and Finjan's positions. As a general matter, you represented that there are not objections to continuing discovery, other than your objections to technical depositions and to the extent the parties dispute whether an accused instrumentality is in the case. You agreed to give us a list of what Check Point's position is with respect to the accused instrumentalities in the case in the coming days.

#### Depositions

- We understand that Check Point is offering certain non-technical witnesses for deposition. For example, Roy Heldshtein who prepared the spreadsheets of financial information will be available in California the first week of November. You were going to get back to us on Cindy Wilson's availability, who is located in the US, and is related to marketing and non-technical product related issues. We have reattached the 30(B)(6) topics and note that we have added a few more. We will take Mr. Heldshtein's deposition on November 4, in California. Let us know what topics he and Ms. Wilson will be designated. Additionally, Check Point was going to get back to us the designee on licensing issues, who may be John Salvitt.
- For technical witnesses, such as Mr. Tamir Zegman or Itai Greenberg, Check Point will not make them available for broader technical related depositions prior to Court resolution of Finjan's infringement contentions and would limit any deposition to the areas that Check Point does not dispute are in the case, if any exist and which Check Point represented it would identify as soon as it could.
- Check Point also stated that it does not know if Judge Orrick's written question procedure applies anymore, but that this written question procedure would not count as a deposition. Check Point also stated that if this procedure still applies, it is not specific to a particular witness but would apply to all technical witnesses. We will get back to you on this issue once we understand your position on what accused instrumentalities are in the case.

#### Interrogatories

- Interrogatory Nos. 4 and 11: Check Point agreed to supplement its responses to these interrogatories.
- Interrogatory No. 9: Check Point will get back to us regarding the missing mapping of source code for E80.61 (with respect to threat emulation and threat extraction) and E80.71 (for all endpoint enterprise instrumentalities). Check Point will add page numbers to the appendix to this interrogatory. Check Point

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