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15 *Attorneys for Plaintiff*  
 16 FINJAN, INC.

17 **IN THE UNITED STATES DISTRICT COURT**  
 18 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
 19 **OAKLAND DIVISION**

20 FINJAN, INC., a Delaware Corporation,

21 Plaintiff,

22 v.

23 QUALYS INC., a Delaware Corporation,

24 Defendant.

25 Case No.: 18-cv-07229-YGR (TSH)

26 **DECLARATION OF KRISTOPHER**  
 27 **KASTENS IN SUPPORT OF PLAINTIFF**  
 28 **FINJAN, INC.'S ADMINISTRATIVE**  
 29 **MOTION TO FILE DOCUMENTS**  
 30 **UNDER SEAL**

1 I, Kristopher Kastens, declare as follows:

2 1. I am an attorney with the law firm of Kramer Levin Naftalis & Frankel LLP (“Kramer  
3 Levin”), counsel of record for Plaintiff Finjan, Inc. (“Finjan”). I have personal knowledge of the facts  
4 set forth in this declaration and can testify competently to those facts. I make this declaration in  
5 support of the parties’ Administrative Motion to File Documents Under Seal pursuant to Civil Local  
6 Rules 79-5(d) and 79-5(e).

7 2. I have reviewed the following document and confirmed that it contains information that  
8 Finjan designated as confidential pursuant to the stipulated protective order in this litigation.

Identification of Documents or Portions of Document to be Sealed	Portions of Document to be Sealed	Designating Party	Reasons for Sealing
Exhibit A to Joint Discovery Letter filed on September 4, 2020  (Finjan’s Damages Contentions)	Highlighted portions of Exhibit A at pp. 10-11	Finjan	This information contains Finjan’s confidential financial information and confidential licensing terms between Finjan and third party licensees or third parties whom Finjan has communicated with regarding its confidential licensing negotiations. This information has been designated by Finjan as “Highly Confidential – Attorneys’ Eyes Only.”

3. Finjan seeks to seal portions of the above document because it reveals Finjan's confidential financial information, and confidential licensing terms between Finjan and third party licensees or third parties whom Finjan has communicated with regarding its confidential licensing negotiations. The Ninth Circuit has established that this type of confidential business information "plainly falls within the definition of 'trade secrets.'" *In re Electronic Arts, Inc.*, 298 Fed. Appx. 568, 569-70 (9th Cir. 2008) (district court erred by denying to seal confidential licensing terms); see also *Apple, Inc. v. Samsung Elecs. Co.*, No. 11-cv-01846-LHK, 2012 WL 3283478 at \*7 (N.D. Cal. Aug. 9, 2012) (granting the sealing of licensing agreements because disclosure would cause "significant competitive harm to the licensing parties as it would provide insight into the structure of their licensing deals, forcing them into an uneven bargaining position in future negotiations"); *Open Text S.A. v. Box, Inc.*, No. 13-cv-04910-JD, 2014 WL 7368594, at \*3 (N.D. Cal. Dec. 26, 2014) (granting motion to seal pricing terms of license agreement). Finjan takes substantial measures within the company to maintain the confidentiality of terms discussed in license agreements or during its licensing negotiations, and prevent this type of confidential business information from being made public. If the general public including competitors gain access to Finjan's confidential licensing information, Finjan will be placed at an unfair disadvantage in future business and licensing negotiations. Finjan requests leave to file the documents set forth above under seal because Finjan designated certain financial and business information in it as "Highly Confidential – Attorneys' Eyes Only."

I declare under the penalty of perjury under the laws of the United States of America that each of the above statements is true and correct. Executed on September 24, 2020, in Menlo Park, CA.

/s/ Kristopher B. Kastens  
Kristopher B. Kastens