

# EXHIBIT A

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8 *Attorneys for Plaintiff*  
9 FINJAN, INC.

10 **IN THE UNITED STATES DISTRICT COURT**  
11 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
12 **SAN FRANCISCO DIVISION**

14 FINJAN, INC., a Delaware Corporation,

15 Plaintiff,

16 v.

17 PROOFPOINT, INC., and ARMORIZE  
18 TECHNOLOGIES, INC.,

19 Defendants.

Case No.: 3:13-cv-05808-HSG

**PLAINTIFF FINJAN, INC.'S  
SUPPLEMENTAL CLAIM  
CONSTRUCTION BRIEFING FOR THE  
TERM WEB CLIENTS FROM U.S.  
PATENT NO. 6,154,844**

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22 **REDACTED VERSION OF DOCUMENT SOUGHT TO BE SEALED**  
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1                    **Supplemental Briefing Pursuant to the Court’s Order of May 17, 2016**

2                    The term “web clients” should be given its “plain and ordinary meaning” because it is a simple  
 3 and well known term, and as such, the plain and ordinary meaning governs unless the patentee has  
 4 redefined the term or has disavowed claim scope. *Thorner v. Sony Computer Entm’t Am. LLC*, 669  
 5 F.3d 1362, 1366 (Fed. Cir. 2012) (“There are only two exceptions to this general rule [of plain and  
 6 ordinary meaning]: 1) when a patentee sets out a definition and acts as his own lexicographer, or 2)  
 7 when the patentee disavows the full scope of a claim term either in the specification or during  
 8 prosecution.”) (citation omitted). Here, the patentee did not act as his own lexicographer and did not  
 9 disavow any claim scope related to these terms during claim construction. Accordingly, “web clients”  
 10 should be given its ordinary meaning which includes the end user’s computer.

11                    **A.     The Disputed Terms Should be Given their Plain and Ordinary Meaning**

12                    During the claim construction process, Finjan and Defendants submitted the following  
 13 proposed constructions for “web client[s]” in their Joint Claim Construction Statement:

Claim Terms	Finjan’s Proposed Construction	Defendants’ Proposed Construction
web client[s]	No construction necessary—Plain and ordinary meaning.	an application on a user computer that requests and downloads web page data from a web server

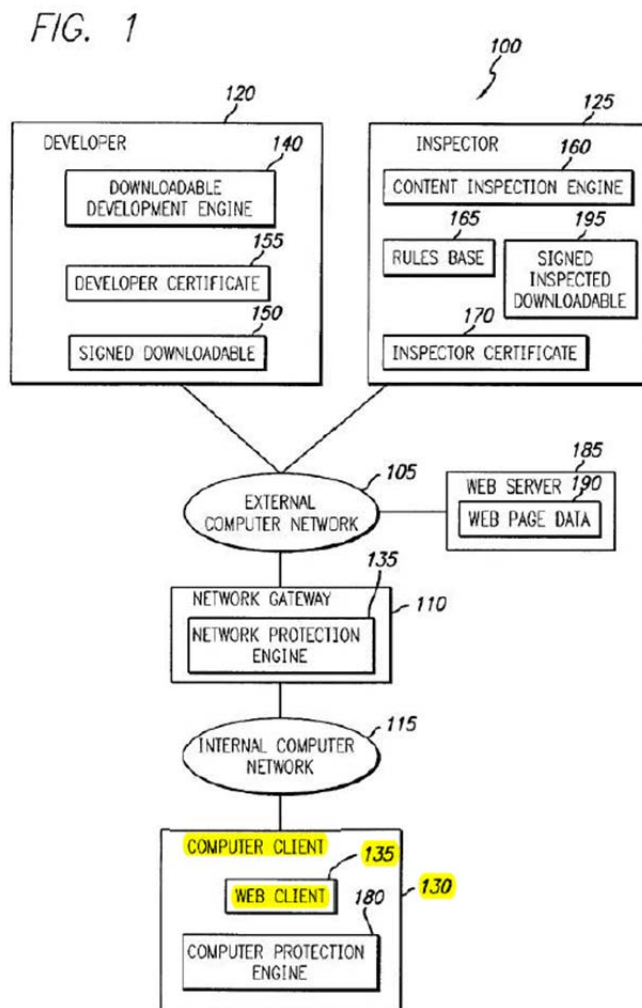
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 19                    While the parties did not agree upon the construction due to additional limitations that  
 20 Defendants were attempting to read into the claim term, Defendants admitted that “web client” is “on a  
 21 user computer.” Defendants specifically stated that the proper construction was a “user computer,”  
 22 which is the same as an “end user’s computer.” Finjan agrees with that ordinary meaning, as it is  
 23 supported and consistent with both the intrinsic and extrinsic record. For example, the specification of  
 24 the ‘844 Patent states that the “computer client 130 includes a web client 175 for accessing the web  
 25 page data 190 provided by the web server 185.” Ex. 1<sup>1</sup>, ‘844 Patent at Col. 5, ll. 6-8; *see also id.* at

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<sup>1</sup> All “Ex.” citations are to exhibits attached to the Declaration of Kristopher Kastens in Support of Finjan’s Supplemental Claim Construction Briefing, filed herewith.

Col. 1, ll. 47-49. This relationship is shown in Figure 1 in the '844 Patent, where the web client 135 is a component of the computer client 130:



This figure shows that the web client is on the end user's computer, shown above as "computer client." Ex. 1, '844 Patent at Figure 1 (highlighting added). This understanding is also consistent with the understanding set forth in contemporaneous dictionaries, where a client, in particular a web client, is the end user selecting a webpage.<sup>2</sup>

<sup>2</sup> Barron's Dictionary of Computer and Internet Terms, Eight Edition describes a "client" as "a computer that receives services from another computer. For example, when you browse the World Wide Web, your computer is a client of the computer that hosts the web page." Ex. 2 at page 90.

**B. Defendants Admitted that “Web Clients” is an “End User” and Should be Estopped from Arguing to the Contrary**

Defendants admitted that “web clients” should be interpreted to mean “user computer.” A party that relies on a position in litigation should be estopped from taking the contrary position at a later time. *Baughman v. Walt Disney World Co.*, 685 F.3d 1131, 1133-34 (9th Cir. 2012); *California United Terminals v. Towne*, 414 F. App’x 941, 941-42 (9th Cir. 2011). Defendants have never raised any other construction, and, in fact, advocated for a particular construction during the claim construction process. As such, they should be estopped from arguing for a different construction now. Reproduced below is Defendants’ support in the Joint Claim Construction Statement for “web clients” being a “user computer:”

U.S. PATENT NO. 6,154,844				
	Term	Claim(s)	Finjan’s Proposed Construction and Support	Defendants’ Proposed Construction and Support
6.	web client[s]	1, 15, 32, 42, 43	No construction necessary – Plain and ordinary meaning. <u>Intrinsic Evidence</u> Abstract;	an application on a user computer that requests and downloads web page data from a web server <u>Intrinsic Evidence:</u>
			Figs. 1-8; Claims 1-44; Col. 1, ll. 1-67; Col. 2, ll. 1-67; Col. 3, ll. 1-67; Col. 4, ll. 1-67; Col. 5, ll. 1-67; Col. 6, ll. 1-67; Col. 7, ll. 1-67; Col. 8, ll. 1-67; Col. 9, ll. 1-67; Col. 10, ll. 1-67; Col. 11, ll. 1-11.  ‘844 Patent File History. <u>Extrinsic Evidence</u> Testimony from Dr. Nenad Medvidovic regarding the proper construction of the term from the perspective of one of skill in the art based on the intrinsic record and extrinsic evidence.  The intrinsic and extrinsic evidence cited by Defendants.	‘844 Patent at Fig. 1, 1:44-49, 5:3-13, 9:11-18. <u>Extrinsic Evidence:</u> Dictionary of Computer Science, Engineering, and Technology (Laplante ed.) (2001) at 78 Webster’s New World Computer Dictionary (10th Ed. 2003) 74 Microsoft Computer Dictionary (5th Ed. 2002) 102 The following is a brief description of the testimony Proofpoint’s expert, Dr. Gene Spafford, may offer regarding the term “web client[s]”: 1) the technical background of the ‘844 patent; 2) the qualifications of one of ordinary skill in the art at the time of the alleged invention(s); 3) how the phrase “web client[s]” would have been understood by one of ordinary skill in the art at the time of the invention(s) in light of the intrinsic and extrinsic evidence; and 4) why Proofpoint’s proposed construction for this term is proper.

Dkt. No. 117-1 (Ex. A to Joint Claim Construction Statement) at 7.

As shown in Defendants’ support for their proposed construction of the “web client” term, the intrinsic record, extrinsic record and expert testimony support the construction that the “web clients” is the end user’s computer. Defendants cite to the same figure, Figure 1, reproduced above to support its

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