

EXHIBIT 5

Kramer Levin



Kris Kastens
Partner
T 650.752.1715
F 650.752.1815
kkastens@kramerlevin.com

990 Marsh Road
Menlo Park, CA 94025-1949
T 650.752.1700
F 650.752.1800

August 13, 2020

VIA EMAIL

Christopher D. Mays
Wilson Sonsini Goodrich & Rosati
650 Page Mill Road
Palo Alto, Ca 94304
cmays@wsgr.com

Re: *Finjan Inc. v. Qualys, Inc.*, N.D. Ca. Case No. 4:18-cv-07229-YGR

Counsel,

Finjan writes in response to Qualys' July 23, 2020 letter regarding Finjan's Infringement Contentions ("IC"). This was Qualys' first correspondence on the matter, despite having Finjan's ICs **for over 15 months**. Finjan is willing to discuss and resolve these issues with Qualys, even though Qualys has waived the majority of its complaints by not raising them in a timely manner.

As an overarching matter, Finjan complied with the Patent Local Rules because it included a "chart identifying specifically where and how each limitation of each asserted claim is found within each Accused Instrumentality, including for each limitation that such party contends is governed by 35 U.S.C. § 112(6), the identity of the structure(s), act(s), or material(s) in the Accused Instrumentality that performs the claimed function." Patent L.R. 3-1(c). Finjan fully addressed the different claim elements and provided support from Qualys' documentation establishing where each element is met. Furthermore, Finjan provided source code citations to the specific files that meet each of these claim element in its response to Interrogatory No. 7, establishing beyond a doubt that crystalized its infringement theories and put Qualys on notice of what Finjan is accusing of infringement.

Qualys' allegations that there are "Accused Products for which Finjan did not provide contentions for each and every limitation" is untrue, as Finjan has provided charts for all Accused Products, alone or in combination, compliant with Patent L.R. 3-1(c). As Finjan's ICs state, the Accused Products include various Qualys "applications" which are "sold a la carte or as part of a bundled package, including but not limited to the Qualys Cloud Suite (Enterprise, Express, Express Lite), the Qualys Cloud Platform (Enterprise, Mid-sized business, or Small business), and the Qualys Cloud Platform for Consultants."

We respond to each of Qualys' allegations below, to the extent that these allegations are coherent. However, many of Qualys' arguments are confusing and difficult to understand and we have responded to the extent we can understand what Qualys is alleging. Additionally, it appears Qualys is attempting the "kitchen sink" approach and alleging most every element of

Christopher D. Mays
August 13, 2020



all of Finjan's ICs are non-compliant with the Patent Local Rules, which is unhelpful to identify what Qualys really believes is at issue. It is simply incredible that Qualys would have delayed raising these issues for well over a year if it had any bona fide concerns. Additionally Finjan notes that, to date, Qualys continues to resist Finjan's repeated requests to produce any substantive internal technical documents, hampering Finjan's ability to obtain discovery on Qualys' Accused Products.

I. Court's Claim Constructions

We have reviewed Qualys' arguments related to Finjan's ICs in view of the Court's claim construction order. As set forth below, all of the contentions disclosed in Finjan's ICs are consistent with the claim construction order valid.

A. Term 1, "instantiating, by the computer, a scanner for the specific programming language ('408 Patent)

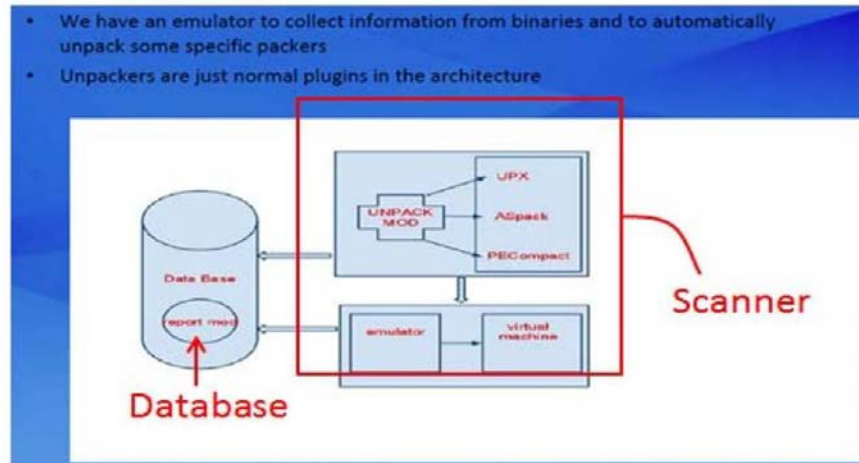
Court's Construction: "generating or requesting a scanner that can scan the programming language by providing a generic scanner instance with language specific data, rules, or both." *Markman* Order at 9.

Finjan has identified the structures in the accused products that meet this element under the Court's Construction. As shown below in the excerpt from Finjan's ICs, Qualys includes a computer which instantiates a scanner for a specific programming language such as JavaScript, ActiveX, etc. For example, Qualys includes Web Application Scanning ("WAS"), generates or requests a scanner that can scan the programming language by providing a generic scanner instance with language specific data, rules, or both to detect threats such as cross-site scripting, SQL injection, etc.

Christopher D. Mays
August 13, 2020



The parser and analyzer rules describe computer exploits as patterns of types of tokens because they enable the identification of malicious code expressed in different computer languages that are included within suspicious files. The patterns of types of tokens provided by the parser and analyzer rules enable each respective scanner to identify exploits through parsing of html files and extracting suspicious JavaScripts, PDFs, visual basic scripts, ActiveX components during static, dynamic, and behavior analysis.



Dissectpeproject-gabriel-110816130546-phpapp01.pdf.

See Appendix F ('408 Patent) at page 8.

B. Term 2, "dynamically generating a policy index." ('968 Patent)

Court's Construction: "adding allowability information to a policy index in response to user requests for cached and non-cached content." *Markman* Order at 13.

Finjan identified the functionality in the Accused Products that meets each claim element under the Court's Construction. As shown in the screenshot provided in Qualys' letter, Qualys' Accused Products dynamically generate a policy index by adding allowability information (e.g., "update findings") to a policy index ("WAF Policy") in response to user requests for cached and non-cached content ("[w]hether users are permitted to modify the vulnerabilities detected by Web Application scans."). This is "dynamically generating a policy index," as the Court construed the term.

Christopher D. Mays
August 13, 2020



26c. Contention 1 – The Accused Products determine digital content allowability using the policy index

As shown below, the Accused Products generate a policy index that relates cached contents to policies using WAS remediation technology and WAF security policies to identify allowable content. See also the analysis provided above in 1(b).

WAF Policy
Create Policy, Update Policy, Delete Policy
These functions relate to Qualys' Web Application Firewall and as such are not discussed in this article.

WAF Event
Archive WAF Event, Update WAF Event
These functions relate to Qualys' Web Application Firewall and as such are not discussed in this article.

WAF Deployment
Manage WAFs
This function relates to Qualys' Web Application Firewall and as such is not discussed in this article.

WAS Remediation

Update findings: Whether users are permitted to modify the vulnerabilities detected by Web Application scans.
Retest vulnerabilities and sensitive content: Determine whether users are permitted to re-run scans from reports.
Ignore findings: Determine whether users are permitted to suppress findings from reports.

<https://community.qualys.com/docs/DOC-5786-was-permissions-explained>

Generates policy index that relates cached contents and policies

See Appendix B ('968 Patent) at page 56.

C. Term 5, "incoming files from the Internet" ('731 Patent)

Court's Construction: "files requested by an intranet computer from the Internet."
Markman Order at 17-19.

Finjan disclosed how this element is met by the accused Qualys products. The IC's explain how the Accused Products perform behavioral analysis for content received by systems operating the Qualys Accused Products, from web servers located on the Internet, such as encoded JavaScript, and Web Applications. See for example, Appendix C ('731 Patent) at 4-9. Further examples include Qualys Vulnerability Management ("VM"), which "identif[ies] vulnerabilities, exploits, malware, patches, & unsupported technologies" and derives security profiles, which "allows customers to analyze zero-day threats and estimate their impact on their assets and critical systems based on information collected from previous scan results." Appendix C ('731 Patent) at 10. This satisfies the Court's construction.

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.