

EXHIBIT 3

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

FINJAN, INC.,

Plaintiff,

v.

QUALYS, INC.,

Defendant.

Case No. 4:18-CV-07229-YGR

**EXPERT REPORT OF DR. SYLVIA D. HALL-ELLIS
REGARDING PUBLIC AVAILABILITY OF CERTAIN PUBLICATIONS**

Sylvia D. Hall-Ellis
November 30, 2020

Web access to more than 5.1-million full-text documents from some of the world's most highly cited publications. The content comprises over 180 journals, over 1,400 conference proceedings, more than 3,800 technical standards, over 1,800 eBooks and over 400 educational courses. Approximately 20,000 new documents are added to *IEEE Xplore* each month. Abstracts are free to access, but access to full text requires a subscription or institutional login.

22. *ResearchGate*.³ A social networking site for scientists and researchers to share papers, ask and answer questions, and find collaborators, *ResearchGate* is the largest academic social network in terms of active users. Although other services have more registered users, a 2015–2016 survey suggests that almost as many academics have *Google Scholar* profiles. Features available to *ResearchGate* members include following a research interest and the work of other individual participants, a blogging feature for users to write short reviews on peer-reviewed articles, private chat rooms for sharing data, editing documents, or discussing confidential topics, and a research-focused job board. *ResearchGate* indexes self-published information on user profiles and suggests members to connect with others who have similar interests. Member questions are fielded to others who have identified relevant expertise on their profiles. As of 2018, *ResearchGate* had more than 15 million users, with its largest user-bases coming from Europe and North America. Most of *ResearchGate's* users are involved in medicine, biology, engineering, computer science, agricultural sciences, and psychology. *ResearchGate* publishes a citation impact measurement in the form of an “RG Score,” which is reported to be correlated with existing citation impact measures. *ResearchGate* does not charge fees for putting content on the site and does not require peer review.

³ <http://www.researchgate.net>

23. *Semantic Scholar*.⁴ Developed at the Allen Institute for Artificial Intelligence and publicly released in November 2015, *Semantic Scholar* is designed to be an AI-backed search engine for scientific journal articles which uses a combination of machine learning, natural language processing, and machine vision to add a layer of semantic analysis to the traditional methods of citation analysis, and to extract relevant figures, entities, and venues from papers. *Semantic Scholar* is designed to highlight important, influential papers, and to identify the connections between them. As of January 2018, following a 2017 project that added biomedical papers and topic summaries, the *Semantic Scholar* corpus included more than 40 million papers from computer science and biomedicine. As of August 2019, the number of included papers had grown to more than 173 million after the addition of the Microsoft Academic Graph records, already used by Lens.org.

24. *Google Scholar*.⁵ A freely accessible web search engine that indexes the full text or metadata of scholarly literature across an array of publishing formats and disciplines released in November 2004, *Google Scholar* includes a significant number of peer-reviewed online academic journals, books, conference papers, selected theses and dissertations, preprints, abstracts, technical reports, and other scholarly literature. While Google does not publish the size of *Google Scholar's* database, scientometric researchers estimated it to contain roughly 389 million documents including articles, citations and patents making it the world's largest academic search engine in January 2018. Because many *Google Scholar* search results link to commercial journal articles, searchers will be able to access only an abstract and the citation details of an article and may have to pay a fee to access the entire article. The most relevant results for the

⁴ <http://www.semanticscholar.org>

⁵ <https://scholar.google.com>

bibliographic database. I personally identified and retrieved the MARC record that is Attachment 2a. As previously noted, the library that created the record is recorded in field 040 with a unique library code. For Attachment 2a, that library code is “EQN,” which means that the MARC record for this manual was created at the Merck, Sharp & Dohme Research Laboratory Library (Kenilworth, New Jersey). As can be seen in the “Entered” field in the MARC record for this exhibit, a cataloger at the Merck, Sharp & Dohme Research Laboratory Library created OCLC record number 34504896 on April 3, 1996.

58. The entry in the second field 500 of Attachment 2a indicates that the manual accompanied a software package. Attachment 2a further includes two locally assigned English language field 650 entries reading “Software” and “Handbooks.” Thus, as of its cataloging, the publication corresponding to the MARC record attached hereto as Attachment 2a was indexed according to its subject matter by virtue of at least two independently sufficient classifications: the field 650 entries. Further, as of April 3, 1996, the MARC record attached hereto as Attachment 2a was accessible through any library with access to the OCLC bibliographic database or the online catalog at a library that added this manual to its collection, which means that the corresponding publication was publicly available on or before that same date through any library with access to the OCLC bibliographic database or through an individual library.

59. Attachment 2a indicates that the manual *Dr. Solomon’s Antivirus Toolkit for Windows and DOS* as cataloged at the Merck, Sharp & Dohme Research Laboratory Library is currently available from 1 library. In view of above, this manual *Dr. Solomon’s Antivirus Toolkit for Windows and DOS* was publicly available no later than April 3, 1996, because by that date it had been received, cataloged, and indexed at the Merck, Sharp & Dohme Research

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