

1 Juanita R. Brooks (CA SBN 75934)  
 brooks@fr.com  
 2 Roger A. Denning (CA SBN 228998)  
 denning@fr.com  
 3 Jason W. Wolff (CA SBN 215819)  
 wolff@fr.com  
 4 Megan A. Chacon (CA SBN 304912)  
 chacon@fr.com  
 5 K. Nicole Williams (CA SBN 291900)  
 nwilliams@fr.com  
 6 FISH & RICHARDSON P.C.  
 7 12860 El Camino Real, Suite 400  
 San Diego, CA 92130  
 8 Phone: (858) 678-5070 /Fax: (858) 678-5099

Philip W. Goter (*pro hac vice*)  
 goter@fr.com  
 Robert P. Courtney (CA SBN 248392)  
 courtney@fr.com  
 FISH & RICHARDSON P.C.  
 3200 RBC Plaza  
 60 South 6th Street  
 Minneapolis, MN 55402  
 Phone: (612) 335-5070 /Fax: (612) 288-9696

9 Aamir A. Kazi (*pro hac vice*)  
 10 kazi@fr.com  
 11 Lawrence R. Jarvis (*pro hac vice*)  
 jarvis@fr.com  
 12 Fish and Richardson P.C.  
 1180 Peachtree Street Ne 21st Floor  
 13 Atlanta, GA 30309  
 14 Phone: (404) 879-7238/ Fax: 404-892-5002

Proshanto Mukherji (*pro hac vice*)  
 mukherji@fr.com  
 FISH & RICHARDSON P.C.  
 One Marina Park Drive  
 Boston, MA 02210  
 Phone: (617) 542-5070/ Fax (617) 542-8906

15 **Attorneys for Plaintiff**  
 16 **FINJAN LLC**

17 UNITED STATES DISTRICT COURT  
 18 NORTHERN DISTRICT OF CALIFORNIA  
 19 (OAKLAND DIVISION)

20 FINJAN LLC, a Delaware Limited Liability  
 21 Company,

22 Plaintiff,

23 v.

24 QUALYS INC., a Delaware Corporation,

25 Defendant.  
 26  
 27  
 28

Case No. 4:18-cv-07229-YGR (TSH)

**FINJAN LLC'S SEPARATE  
 STATEMENT SUPPORTING MOTION  
 FOR SUMMARY JUDGMENT**

DATE: July 6, 2021  
 TIME: 2:00 P.M.  
 JUDGE: Hon. Yvonne Gonzalez Rogers  
 PLACE: Courtroom 1, 4<sup>th</sup> Floor

Pursuant to the Federal Rules of Civil Procedure, the U.S.D.C. for the Northern District of California's Local Rules and Judge Yvonne Gonzalez Rogers' Standing Order in Civil Case Rule 9.c, Finjan LLC ("Finjan") hereby submits the following Separate Statement:

Issue No.	Finjan's Undisputed Material Facts and Supporting Evidence	Opposing Party's Response and Supporting Evidence
Issue 1 (Qualys cannot establish DSAVT is admissible as prior art)	<p>Fact 1. Qualys offered no evidence from anyone with personal knowledge that DSAVT is authentic or was publicly accessible before November 6, 1997.</p> <p>Exh. 1 (Hall-Ellis Dep. Tr.) at 40:11-18, and 41:12-22, 44:21-45, 50:5-9, 51:15-19</p>	
Issue 1	<p>Fact 2. Dr. Hall-Ellis' opinion regarding the public accessibility of DSAVT was based on a library catalog record for a different reference.</p> <p>Exh. 1 (Hall-Ellis Dep. Tr.) at 36:3-16, 40:11-18, 43:13-15, 41:21-22, 44:21-45, 47:13-48:5, 48:9-51:19</p> <p>Exh. 3 (Hall-Ellis Ex. Rep.) at ¶¶ 59-60 and Attachment 2a [MARC Record for a different Reference]</p> <p>Exh. 2 (QUALYS00002807/DSAVT Reference Relied on by Qualys) at 2807</p>	
Issue 1	<p>Fact 3. Dr. Hall-Ellis' had not seen or inspected the contents of the DSAVT reference that corresponds to the library catalog she relies on to support her opinion regarding the DSAVT.</p> <p>Exh. 1 (Hall-Ellis Dep. Tr.) at 40:20-41:7, 50:5-9</p>	
Issue 2 (Qualys cannot establish Mounji is	<p>Fact 4. Qualys offered no evidence from anyone with personal knowledge that Mounji is authentic or was publicly accessible before November 6, 1997.</p>	

1	admissible as prior art)	Exh. 1 (Hall-Ellis Dep. Tr.) at 24:5-13, 55:8-18, 56:4-57:1, 57:10-12, 60:16-24, 61:1-18, 72:14-23	
2			
3	Issue 2	Fact 5. Qualys offered no evidence that the Mounji reference was publicly accessible on the CiteSeer <sup>x</sup> website before November 6, 1997.	
4			
5			
6		Exh. 3 (Hall-Ellis Exp. Rep.) at ¶¶ 104- 05	
7			
8		Exh. 1 (Hall-Ellis Dep. Tr.) at 75:1-15	
9			
10		Exh. 5 (Hall-Ellis Dep. Ex. 8/CiteSeer Wikipedia page)	
11	Issue 2	Fact 6. Qualys offered no evidence that the Mounji reference was publicly accessible on the ResearchGate website before November 6, 1997.	
12			
13			
14		Exh. 3 (Hall-Ellis Exp. Rep.) at ¶¶ 104- 05	
15			
16		Exh. 1 (Hall-Ellis Dep. Tr.) at 76:16-18	
17			
18		Exh. 6 (Hall-Ellis Dep. Ex. 9/ ResearchGate Informational Page)	
19	Issue 3 (Qualys cannot establish Thomson is admissible as prior art)	Fact 7. Qualys offered no evidence from anyone with personal knowledge that Thomson is authentic or was publicly accessible before November 6, 1997.	
20			
21		Exh. 1 (Hall-Ellis Dep. Tr.) at 24:5-13, 63:24-25, 64:25-65:12, 65:20-23, 67:6- 9, 73:10-19	
22			
23	Issue 3	Fact 8. Qualys offered no evidence that the Thomson reference was publicly accessible on the ResearchGate website before November 6, 1997.	
24			
25			
26		Exh. 3 (Hall-Ellis Exp. Rep.) at ¶¶ 116- 17	
27			
28		Exh. 1 (Hall-Ellis Dep. Tr.) at 76:16-18	

	Exh. 6 (Hall-Ellis Dep. Ex. 9/ (ResearchGate Informational Page)	
Issue 3	Fact 9. Qualys offered no evidence that the Thomson reference was publicly accessible on the Semantic Scholar website before November 6, 1997.  Exh. 3 (Hall-Ellis Exp. Rep.) at ¶¶ 23, 116-17  Exh. 1 (Hall-Ellis Dep. Tr.) at 27:1-6, 77:25-78:2	

Dated: April 19, 2021

/s/ Juanita R. Brooks

Juanita R. Brooks (CA SBN 75934)  
brooks@fr.com

Roger A. Denning (CA SBN 228998)  
denning@fr.com

Jason W. Wolff (CA SBN 215819)  
wolff@fr.com

Megan A. Chacon (CA SBN 304912)  
chacon@fr.com

K. Nicole Williams (CA SBN 291900)  
nwilliams@fr.com

FISH & RICHARDSON P.C.  
12860 El Camino Real, Suite 400  
San Diego, CA 92130  
Phone: (858) 678-5070 /Fax: (858) 678-5099

Aamir A. Kazi (*pro hac vice*)  
kazi@fr.com

Lawrence R. Jarvis (*pro hac vice*)  
jarvis@fr.com

Fish and Richardson P.C.  
1180 Peachtree Street Ne 21st Floor  
Atlanta, GA 30309  
Phone: (404) 879-7238/ Fax: 404-892-5002

Proshanto Mukherji (*pro hac vice*)  
mukherji@fr.com

FISH & RICHARDSON P.C.  
One Marina Park Drive  
Boston, MA 02210  
Phone: (617) 542-5070/ Fax (617) 542-8906

Philip W. Goter (*pro hac vice*)  
goter@fr.com

Robert P. Courtney (CA SBN 248392)  
courtney@fr.com

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

3200 RBC Plaza  
60 South 6th Street  
Minneapolis, MN 55402  
Phone: (612) 335-5070 /Fax: (612) 288-9696

Attorneys for Plaintiff  
**FINJAN LLC**

# 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.