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10 *Attorneys for Defendant*
 11 QUALYS INC.

12 **IN THE UNITED STATES DISTRICT COURT**
 13 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
 14 **OAKLAND DIVISION**

16	FINJAN LLC,)	CASE NO.: 4:18-cv-07229-YGR
)	
17	Plaintiff,)	QUALYS'S RESPONSIVE SEPARATE
)	STATEMENT OF UNDISPUTED
18	v.)	MATERIAL FACTS
)	
19	QUALYS INC.,)	
)	
20	Defendant.)	
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1 Pursuant to Judge Yvonne Gonzalez Rogers' Standing Order in Civil Case Rule 9(c),
 2 Qualys Inc. ("Qualys") hereby submits the following Responsive 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>	<p>Disputed. Hall-Ellis personally reviewed a physical copy of DSAVT in her analysis for the <i>Juniper</i> matter. That physical copy of DSAVT is materially identical to the DSAVT reference produced in this matter. Hall-Ellis's review of the scanned copy of DSAVT's printed copyright date also constitutes personal knowledge. Hall-Ellis also has personal knowledge of the publication dates from her review of the MARC record she personally retrieved.</p> <p>Hall-Ellis Decl. at ¶¶ 6-18. Mays Decl. at ¶ 2. Ex. 34 (Hall-Ellis Expert Report) at ¶ 56-61.</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>	<p>Disputed. Dr. Hall-Ellis's opinion regarding the public accessibility of DSAVT was based on a library catalog record for a different "manifestation" of the same book, which she explains means a different printing of the same book, not a different book.</p> <p>Hall-Ellis Decl. at ¶¶ 6-18. Ex. 34 (Hall-Ellis Expert Report) at ¶¶ 56-61. Ex. 38 (Hall-Ellis Dep. Tr.) at 43:20-44:20; 46:15-47:12; 48:16-50:4; 51:15-22. D.I. 192-4 at 27 (Hall-Ellis Expert Report, Attachment 2a, MARC record for DSAVT). D.I. 192-3 at QUALYS00002805-807, QUALYS00003045 (DSAVT).</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>	<p>Disputed. Hall-Ellis personally reviewed a physical copy of DSAVT in her analysis for the <i>Juniper</i> matter, which was provided to her by Juniper's counsel. In this case, Qualys obtained the digital copy of DSAVT at issue in this motion from Juniper's counsel. The physical copy of DSAVT is materially identical to the DSAVT reference produced in this matter, which is different printing of the DSAVT reference described in the MARC record.</p>

		<p>Hall-Ellis Decl. at ¶¶ 6-18. Mays Decl. at ¶ 2. Ex. 34 (Hall-Ellis Expert Report) at ¶ 56-61. Ex. 38 (Hall-Ellis Dep. Tr.) at 43:20-44:20; 46:15-47:12; 48:16-50:4; 51:15-22. D.I. 192-4 at 27. (Hall-Ellis Expert Report, Attachment 2a, MARC record for DSAVT). D.I. 192-3 at QUALYS00002805-807, QUALYS00003045 (DSAVT).</p>
<p>Issue 2 (Qualys cannot establish Mounji is admissible as prior art)</p>	<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> <p>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</p>	<p>Disputed. Hall-Ellis personally retrieved Mounji from <i>CiteSeer</i>^x and reviewed its contents, which she concluded was complete and unaltered. Hall-Ellis also personally reviewed the publication date listed on the face of Mounji and the date listed in <i>CiteSeer</i>^x to conclude that Mounji was publicly available before November 6, 1997.</p> <p>Hall-Ellis Decl. at ¶¶ 19, 24. Ex. 34 (Hall-Ellis Expert Report) at ¶¶ 102-106. Ex. 38 (Hall-Ellis Dep. Tr.) at 54:25-57:1; 58:24-59:7.</p>
<p>Issue 2</p>	<p>Fact 5. Qualys offered no evidence that the Mounji reference was publicly accessible on the <i>CiteSeer</i>^x website before November 6, 1997.</p> <p>Exh. 3 (Hall-Ellis Exp. Rep.) at ¶¶ 104-05</p> <p>Exh. 1 (Hall-Ellis Dep. Tr.) at 75:1-15</p> <p>Exh. 5 (Hall-Ellis Dep. Ex. 8/<i>CiteSeer</i> Wikipedia page)</p>	<p>Undisputed.</p>
<p>Issue 2</p>	<p>Fact 6. Qualys offered no evidence that the Mounji reference was publicly accessible on the <i>ResearchGate</i> website before November 6, 1997.</p> <p>Exh. 3 (Hall-Ellis Exp. Rep.) at ¶¶ 104-05</p> <p>Exh. 1 (Hall-Ellis Dep. Tr.) at 76:16-18</p>	<p>Undisputed.</p>

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1		Exh. 6 (Hall-Ellis Dep. Ex. 9/ ResearchGate Informational Page)	
2	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. 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	Disputed. Hall-Ellis personally retrieved Thompson from <i>Semantic Scholar</i> . Hall-Ellis also personally reviewed the landing page of <i>ResearchGate</i> for Thomson to conclude that Thomson was publicly available before November 6, 1997. Hall-Ellis Decl. at ¶¶ 19, 23. Ex. 34 (Hall-Ellis Expert Report) at ¶¶ 115-119. Ex. 38 (Hall-Ellis Dep. Tr.) at 63:18- 20; 64:16-65:19; 73:4-9.
3	Issue 3	Fact 8. Qualys offered no evidence that the Thomson reference was publicly accessible on the ResearchGate website before November 6, 1997. Exh. 3 (Hall-Ellis Exp. Rep.) at ¶¶ 116-17 Exh. 1 (Hall-Ellis Dep. Tr.) at 76:16-18 Exh. 6 (Hall-Ellis Dep. Ex. 9/ ResearchGate Informational Page)	Undisputed.
4	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	Undisputed.
5	OPPOSING PARTY'S ADDITIONAL MATERIAL FACTS		
6	Issue 1		Additional Fact 1. Hall-Ellis has opined that the produced DSAVT reference is not in a condition that creates suspicion about its authenticity as it is unaltered and complete. Hall-Ellis Decl. at ¶ 12. Ex. 34 (Hall-Ellis Expert Report) at ¶ 56. Ex. 39 (DSAVT).
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		<p>Additional Fact 2. The copyright page of the DSAVT reference lists a copyright date of 1995 and an “edition date” of November 1995.</p> <p>Hall-Ellis Decl. at ¶ 12. Ex. 34 (Hall-Ellis Expert Report) at ¶ 56. D.I. 192-3 at QUALYS00002807.</p>
		<p>Additional Fact 3. The DSAVT MARC record bears the same title as the DSAVT reference.</p> <p>Hall-Ellis Decl. at ¶¶ 11-18. Ex. 34 (Hall-Ellis Expert Report) at ¶¶ 56, 59. D.I. 192-3 at QUALYS00002805. D.I. 192-4 at 27.</p>
		<p>Additional Fact 4. The DSAVT MARC record bears the same publisher (and publisher’s address) as listed in the DSAVT reference.</p> <p>Hall-Ellis Decl. at ¶¶ 11-18. Ex. 34 (Hall-Ellis Expert Report) at ¶ 56. D.I. 192-3 at QUALYS00002806, QUALYS00003045. D.I. 192-4 at 27.</p>
		<p>Additional Fact 5. The DSAVT MARC record bears the same copyright date and “edition date” as the DSAVT reference.</p> <p>Hall-Ellis Decl. at ¶¶ 11-18. Ex. 34 (Hall-Ellis Expert Report) at ¶ 56. D.I. 192-3 at QUALYS00002807. D.I. 192-4 at 27.</p>
		<p>Additional Fact 6. Stubblebine independently opined that DSAVT was publicly available before November 6, 1997 based on of his review of two webpages.</p> <p>Stubblebine Decl. at ¶ 4. Ex. 36 (Stubblebine Depo Trans.) at 23:15-24:7. Ex. 5 (Google books webpage). Ex. 28 (WinWorld webpage).</p>
Issue 2.		<p>Additional Fact 7. Hall-Ellis opined that the Mounji reference is not in a condition that creates suspicion about its authenticity as it is unaltered and complete.</p>

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