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11

12   **IN THE UNITED STATES DISTRICT COURT**

13   **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

14   **OAKLAND DIVISION**

15

16 FINJAN LLC,   )   CASE NO.: 4:18-cv-07229-YGR
)
17   Plaintiff,   )   **DECLARATION OF DR. STUART**
)   **STUBBLEBINE IN SUPPORT OF**
18   v.   )   **QUALYS'S OPPOSITION TO**
)   **FINJAN'S MOTION FOR SUMMARY**
19 QUALYS INC.,   )   **JUDGMENT**
)
20   Defendant.   )
)
21   )

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1   I, Dr. Stuart Stubblebine, declare as follows:

2   1.   I have been retained as an invalidity expert by Wilson, Sonsini, Goodrich, & Rosati

3   ("WSGR"), on behalf of Defendant Qualys Inc. ("Qualys"). I make this declaration in support of

4   Qualys's Opposition to Plaintiff Finjan LLC's ("Finjan") Motion for Summary Judgment (D.I. 192).

5   I have personal knowledge of the facts set forth in this declaration and, if called as a witness, could

6   and would competently testify thereto.

7   2.   I received a Bachelor of Science degree in Computer Science and Mathematics in

8   1983 from Vanderbilt University, a Master of Science degree in Electrical Engineering in 1988 with

9   an emphasis in computer networking and distributed systems from the University of Arizona, and a

10   Ph.D. degree in Electrical Engineering with a concentration in Computer Engineering in 1992 from

11   the University of Maryland. My Ph.D. dissertation was in the area of message integrity in

12   cryptographic protocols.

13   3.   I served in the U.S. Army from 1984 to 1987, focusing on telecommunications. From

14   1985 to 1987, I was an instructor at the City Colleges of Chicago, teaching undergraduate computer

15   science courses relating to programming and system analysis and design. In 1988, I was a Research

16   Assistant in the Electrical and Computer Engineering Department at the University of Arizona.

17   From 1989 to 1990, I was the Director of Secure Systems Engineering at Commcrypt. I was a

18   teaching assistant at the University of Maryland from 1990 to 1991. I was a Computer Scientist and

19   consultant in the Federal Systems Division of IBM during the time I performed my Ph.D. research.

20   After receiving my Ph.D., I had a joint appointment at the University of Southern California as a

21   Research Assistant Professor in the Computer Science department and as a Computer Scientist with

22   the Information Sciences Institute, from 1992 to 1994. From 1994 to 1998, I was an Adjunct Faculty

23   member in the Computer Science department of the University of Southern California. I was also a

24   Member of Technical Staff with AT&T Bell Labs from 1994 to 1996, performing research in

25   computer and network security technology. From 1996 to 1998, I was a Principal Member of

26   Technical Staff with AT&T Labs – Research, formerly AT&T Bell Labs, performing research into

27   computer and network security technology. I was a Vice President and Cryptographer at CertCo,

28   Inc. from 1998 to 2001, conducting research, design, and analysis of public key infrastructure

1 protocols and related risk management services. Beginning in 2001, I formed Stubblebine

2 Consulting and Stubblebine Research Labs, and began my affiliation as a professional researcher

3 with the Computer Science department, University of California, Davis. As a principal of

4 Stubblebine Consulting, I provide consultation services primarily in the fields of computer and

5 network security. I was previously a research scientist with Stubblebine Research Labs, performing

6 research sponsored by the National Science Foundation into security and privacy technology.

7   4.   In preparing my expert report, I reviewed the *Dr. Solomon's Antivirus Toolkit for*

8 *Windows and DOS* by Alan Solomon ("DSAVT") reference. DSAVT is the user manual that

9 accompanies the Dr. Solomon Anti-Virus Toolkit product ("DSAVT Product"). During my

10 deposition, I testified that I looked more closely at DSAVT to see if I could determine when it was

11 publicly available. In doing so, I took note of the version number marked in DSAVT:

12

13 **Software release**

14 This manual describes Version 7.5 of Dr Solomon's Anti-Virus
Toolkit for Windows and Dr Solomon's Anti-Virus Toolkit for

15 DOS.

16

17 D.I. 192-3 at QUALYS00002807. Then, using the Internet, I came across webpages that suggested

18 to me that Version 7.5 of the DSAVT Product was available before the November 6, 1997 priority

19 date. In doing so, I came across evidence that Version 7.5 of the DSAVT Product was released in

20 1996. Ex. 5 to the Declaration of Christopher D. Mays ("Mays Decl.")

21 (https://books.google.com/books/about/Dr_Solomon_s_Anti_Virus_Toolkit_for_Wind.html?id=B

22 XFOwgEACAAJ). I also came across some evidence that a later version of the DSAVT Product

23 was released on May 1, 1997, which is well before the November 6, 1997 priority date. See for

24 example, Ex. 28 to the Mays Decl. (https://winworldpc.com/product/dr-solomons-anti-virus-

25 toolkit/7x). Logically, Version 7.72 of the DSAVT Product is released after Version 7.5 of the

26 DSAVT Product, thus indicating that Version 7.5 of the DSAVT Product must have been released

27 before May 1, 1997. Since DSAVT is a software user manual, it is my understanding that DSAVT

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1 would accompany the actual the DSAVT Product. Based on my review of these webpages, I believe

2 that DSAVT was publicly available prior to May 1, 1997.

3   5.   I also testified as to the date of public accessibility of the Thomson reference. A few

4 days prior to my deposition, I performed an Internet Archive search and found a screengrab of a

5 University of Saskatchewan ("USask") webpage, that was titled "1997 Graduate Student

6 Symposium." Ex. 35 (Stubblebine Depo Ex. 31). As I testified, this screengrab lists Judi R.

7 Thomson's paper, "Proxy Servers and Databases for Managing Web-based Information."

8   6.   In examining the screengrab, I testified that there is a note on the bottom of the

9 webpage that says "This page last modified Wednesday August 27, 1997", which indicates to me

10 that this webpage has not been modified since August 27, 1997 despite the fact that the screengrab

11 is from January 21, 2001. There is no reason for me to suspect that the webpage has been modified

12 after August 27, 1997, given the remark on the webpage itself stating that it has not been modified

13 since. Given these facts, it is my opinion that Thomson was publicly available on the USask

14 webpage by at least August 27, 1997.

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16 I declare under the penalty of perjury under the laws of the United States of America that each of

17 the above statements is true and correct. Executed on May 10, 2021, in Miami, Florida.

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23   _Stuart G. Stubblebine_

                                  Dr. Stuart Stubblebine

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