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*Attorneys for Defendant*  
 QUALYS INC.

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

15	FINJAN LLC	)	CASE NO.: 4:18-cv-07229-YGR (TSH)
16		)	
17	Plaintiff,	)	<b>DEFENDANT QUALYS INC.'S</b>
18	v.	)	<b>OPPOSITION TO FINJAN LLC'S</b>
19	QUALYS INC.,	)	<b>ADMINISTRATIVE MOTION FOR</b>
20	Defendant.	)	<b>LEAVE TO FILE A COMBINED</b>
21		)	<b>REPLY AND OPPOSITION TO</b>
22		)	<b>QUALYS'S MOTION FOR SUMMARY</b>
23		)	<b>JUDGMENT OF NO MORE THAN 25</b>
24		)	<b>PAGES</b>
25		)	
26		)	
27		)	
28		)	

1 Qualys Inc. (“Qualys”) opposes Finjan LLC’s (“Finjan”) Administrative Motion For Leave  
2 to File a Combined Reply and Opposition to Qualys’s Motion for Summary Judgment of No More  
3 than 25 Pages (D.I. 203). The Motion is a belated 11<sup>th</sup>-hour attempt by Finjan to change the ground  
4 rules for the parties’ summary judgment briefing and should be denied as unfairly prejudicial to  
5 Qualys.

6 Finjan raised this issue for the first time only hours before filing its overlong brief. But the  
7 Court’s direction is clear. Finjan was allotted 25 pages for its one summary judgment motion, and  
8 Qualys was allotted 25 pages *combined* for its opposition and single cross-motion. Standing Order  
9 in Civil Cases (“S.O.”) at ¶¶ 9b, 9e; *see also* D.I. 160 at 3; Ex. 1, Pre-Filing Conference Tr. at  
10 42:11-15<sup>1</sup>. Finjan was then allotted 15 pages for a *combined* reply to its motion and opposition to  
11 Qualys’s cross motion. S.O. at ¶ 9e; Ex. 1 at 42:18-20; 42:24-25

12 The parties fully discussed the issues to be presented at Summary Judgment during the Pre-  
13 Filing Conference. *See generally* Ex. 1. Had Finjan legitimately believed it required additional  
14 pages for its combined reply and opposition to address the issues raised by Qualys’s motion, Finjan  
15 could (and should) have raised those issues either at the Pre-Filing Conference or at least before  
16 Qualys’s combined opposition and cross-motion were due, so that the parties could meaningfully  
17 meet and confer to reach a mutually acceptable arrangement. Instead, Finjan remained silent until  
18 the final hours before its brief was due, and well after the window had elapsed for Qualys to  
19 discuss, negotiate, and/or seek a reciprocal page-limit extension of its own combined summary  
20 judgment brief. Finjan’s belated and unilateral page limit extension thus prejudices Qualys and  
21 should be denied.

22 Finjan argues that the Court’s Orders do not apply because Qualys’s cross-motion does not  
23 merely counter the same legal issues raised in Finjan’s opening brief (and so, according to Finjan,  
24 it is not a “cross-motion” according to the Court’s Standing Orders). Of course, Finjan’s  
25 interpretation of the term “cross-motion” is unsupported and is inconsistent with the Court’s  
26 Orders, its instructions to the parties at the Pre-Filing Conference, and the Minutes thereto. *See*

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<sup>1</sup> “Ex ” refers to the exhibits to the Mays Declaration filed herewith

1 S.O. at ¶¶ 9b, 9e; D.I. 160 at 3; Ex. 1 at 42:11-15; D.I. 186 (Minutes of Pre-Filing Conference  
2 stating that Qualys was to file a “Single Brief Opposition to Motion and Cross-Motion for  
3 Summary Judgment” and Finjan was to file a “Single Reply Brief to its own Motion and  
4 Opposition to Cross-Motion for Summary Judgment.”). There is no surprise here: Finjan knew  
5 exactly which issues Qualys intended to seek summary judgment on and that those issues were  
6 different from the ones Finjan raised in its opening brief. Qualys objects to Finjan’s thread-bare  
7 attempt to deflect blame on to Qualys for Finjan’s own failure to timely raise this issue.

8 For the foregoing reasons, Qualys requests that the Court deny Finjan’s motion.

9  
10 Respectfully submitted,

11 WILSON SONSINI GOODRICH & ROSATI

12 Dated: June 7, 2021

13 By: /s/ Christopher D. Mays  
CHRISTOPHER D. MAYS

14 *Counsel for*  
15 QUALYS INC.

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