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Attorneys for Plaintiff
FINJAN LLC

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

21 FINJAN LLC) CASE NO.: 4:18-cv-07229-YGR (TSH)
22)
23 Plaintiff,) **JOINT MOTION TO STAY**
24) **LITIGATION**
25 v.)
26 QUALYS INC.,)
27 Defendant.)
28 _____)

1 The parties jointly request the Court stay the litigation pending the outcome of appellate
2 review of the court's summary judgment order in *Finjan v. ESET* (S.D. Cal. Case No. 17-cv-0183)
3 ("ESET Action").

4 As the parties informed the Court during the March 26, 2021, hearing in this action, the
5 court in the ESET Action issued a summary judgment order finding U.S. Patent Nos. 6,154,844
6 and 6,804,780 invalid under 35 U.S.C. § 112 for indefiniteness ("ESET Order"). *See* Transcript
7 of March 26, 2021 Hearing at 31:4-37:4 and 43:3-44:11; Dkt. No. 869 of ESET Action. Finjan
8 will appeal the ESET Order, and its predicate claim construction order. Qualys maintains that the
9 ESET Order and the outcome of any appellate review are relevant to the instant litigation because
10 (1) the '844 Patent is asserted in this case and (2) a second patent asserted in this case—U.S. Patent
11 No. 8,677,494—is a continuation of the '780 Patent.

12 After meeting and conferring over the issues, the parties agree that the interests of judicial
13 economy as well as the resources of the Court and the parties are best served by staying this
14 litigation pending the outcome of Finjan's appeal. For example, the '844 and '494 Patents are
15 among four presently asserted patents in this litigation; these two patents therefore represent a
16 significant number of issues in the case that may be resolved or narrowed based on the outcome
17 of Finjan's appeal (such as the parties' several infringement and invalidity theories regarding these
18 two patents). Moreover, if the appeal affirms the ESET Order, it would dispose of the '844 Patent
19 (and, Qualys contends, the '494 Patent); however, if the appeal reverses the ESET Order or the
20 underlying claim construction order, it would resolve Qualys's collateral estoppel defense for this
21 particular issue. Waiting for resolution of Finjan's appeal could also reduce the burden on the
22 Court by potentially eliminating or narrowing summary judgment issues for the Court to decide.

23 The parties therefore jointly request the Court stay the litigation, including all pending
24 deadlines related to their summary judgment motions and the hearing for the same, pending the
25 completion of any appellate review of the order at Dkt. No. 869 in the ESET Action.

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Respectfully submitted,

FISH & RICHARDSON P.C.

Dated: June 15, 2021

By: /s/ Juanita R. Brooks
JUANITA R. BROOKS

Counsel for Plaintiff
FINJAN, LLC

WILSON SONSINI GOODRICH & ROSATI

Dated: June 15, 2021

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

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QUALYS INC.

ATTESTATION PURSUANT TO CIVIL L.R. 5-1(I)

In accordance with Civil Local Rule 5-1(i)(3), I attest that concurrence in the filing of this document has been obtained from any other signatory to this document.

/s/ Christopher D. Mays
Christopher D. Mays