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16 FINJAN, INC.

17 **IN THE UNITED STATES DISTRICT COURT**
18 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
19 **SAN JOSE DIVISION**

20 FINJAN, INC., a Delaware Corporation,

21 Plaintiff,

22 v.

23 BLUE COAT SYSTEMS, INC., a Delaware
24 Corporation,

25 Defendant.

Case No.: 15-cv-3295-BLF-SVK

**PLAINTIFF FINJAN, INC.'S NOTICE OF
MOTION AND PARTIAL RENEWED
MOTION FOR JUDGMENT AS A
MATTER OF LAW PURSUANT TO FED.
R. CIV. P. 50(b)**

Date: TBD

Time: TBD

Place: Courtroom 3, 5th Floor

Before: Hon. Beth Labson Freeman

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NOTICE OF MOTION AND MOTION

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

NOTICE IS HEREBY GIVEN that as soon as the matter may be heard by the Court, Finjan, Inc. (“Finjan”) will and hereby does move the Court for an order granting its partial renewed motion for judgment as a matter of law. This Motion is based on this Notice of Motion, the Memorandum of Points and Authorities, the trial record, the pleadings and papers on file, and any evidence and argument presented to the Court.

RELIEF REQUESTED

Pursuant to the Federal Rule of Civil Procedure 50(b), Finjan moves for renewed judgment as a matter of law (“JMOL”) that: (1) Blue Coat infringes U.S. Patent No. 6,154,844 (“the ‘844 Patent”) and U.S. Patent No. 8,677,494 (“the ‘494 Patent”); (2) Blue Coat’s infringement was and continues to be willful; and (3) Blue Coat owes damages of no less than a reasonable royalty for infringement of the ‘844 Patent and ‘494 Patent, i.e. \$29.8 million and \$16.2 million respectively. Blue Coat failed to present a legally sufficient evidentiary basis to support its defenses to the foregoing. For such reasons as discussed in detail below, the Court should grant Finjan’s renewed motion for judgment as a matter of law¹.

I. LEGAL STANDARD

Fed. R. Civ. P. 50(b) states that a party may move for a renewed motion for judgment as a matter of law no later than 28 days after the jury was discharged if the motion addresses a jury issue not decided by a verdict. “Where the jury has not reached a verdict, the failure to reach a verdict does not necessarily preclude a judgment as a matter of law.” *Shum v. Intel Corp.*, 630 F. Supp. 2d 1063, 1072 (N.D. Cal. 2009) (citations omitted). Judgment as a matter of law is appropriate if the Court views the evidence in the light most favorable to the nonmoving party, drawing all reasonable inferences in that party’s favor, and if “the court finds that a reasonable jury would not have a legally

¹ Finjan will move for renewed judgment as a matter of law on remaining issues set forth in its Rule 50(a) motion after the Court’s entry of judgment. *See* Fed. R. Civ. P. 50(b) (a party may move for a renewed motion for judgment as a matter of law “[n]o later than 28 days after the entry of judgment—or if the motion addresses a jury issue not decided by a verdict, no later than 28 days after the jury was discharged . . .”); Nov. 21, 2017 Hearing Tr. at 15:22-16:12.

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