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13 *Attorneys for Plaintiff*
 14 FINJAN, INC.

15 **IN THE UNITED STATES DISTRICT COURT**
 16 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**
 17 **SAN DIEGO DIVISION**

18 FINJAN, INC., a Delaware Corporation,
 19
 20 Plaintiff,

21 v.

22 ESET, LLC, a California Limited
 23 Liability Corporation, and ESET SPOL.
 24 S.R.O., a Slovak Republic Corporation,
 25
 26 Defendants.

27 ESET, LLC, a California Limited
 28 Liability Corporation, and ESET SPOL.
 29 S.R.O., a Slovak Republic Corporation,

30 Counterclaim-Plaintiffs,

31 v.

32 FINJAN, INC., a Delaware Corporation,
 33
 34 Counterclaim-Defendant.

Case No. 3:17-cv-00183-CAB-BGS

**DECLARATION OF KRISTOPHER
 KASTENS IN SUPPORT OF
 PLAINTIFF FINJAN INC.'S MOTION
 IN LIMINE NO. 5 TO PRECLUDE
 DEFENDANTS' EXPERTS FROM
 APPLYING THEIR OWN CLAIM
 CONSTRUCTIONS AT TRIAL AND
 MOTION IN LIMINE NO. 6 TO
 PRECLUDE DEFENDANTS'
 EXPERTS FROM RELYING ON
 REDACTED REPORTS FROM
 ANOTHER CASE**

Date: May 28, 2019

Judge: Cathy Ann Bencivengo

PER CHAMBERS RULES, NO ORAL
 ARGUMENT UNLESS ORDERED BY
 THE COURT

1 I, Kristopher Kastens, declare and state as follow:

2 1. I am an attorney with the law firm Kramer Levin Naftalis & Frankel LLP,
3 counsel for Plaintiff Finjan, Inc. (“Finjan”). I have personal knowledge of the facts
4 stated herein and can testify competently to those facts. I make this declaration in
5 support of Plaintiff, Finjan, Inc.’s Motion *in Limine* No. 5 to Preclude Defendants’
6 Experts from Applying Their Own Claim Constructions at Trial and Motion *in Limine*
7 No. 6 to Preclude Defendants’ Experts from Relying on Redacted Reports from Another
8 Case.

9 2. Attached hereto as Exhibit 1 is a true and correct copy of an email from
10 Mr. Scott Penner, counsel for Defendants, to Mr. Greg Proctor, counsel for Finjan, dated
11 December 14, 2018.

12 3. Attached hereto as Exhibit 2 is a true and correct copy of pages 244, 246,
13 273, and 414 from the Expert Rebuttal Report of Eugene H. Spafford, Ph.D. Regarding
14 Non-Infringement of the ‘844, ‘780, ‘086, ‘621, and ‘755 Patents, served on February
15 15, 2019.

16
17 I declare under penalty of perjury under the laws of the United States that the
18 foregoing is true and correct. Executed on February 7, 2020, in Menlo Park, California.

19 s/ Kristopher Kastens
20 Attorneys for Finjan, Inc.
21 Email: kkastens@kramerlevin.com
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ATTESTATION

Pursuant to Section 2(f)(4) of the Electronic Case Filing Administrative Policies and Procedures Manual, I hereby certify that authorization for the electronic signature of any other signatory to this document has been obtained.

s/ Lisa Kobialka
Lisa Kobialka
Attorneys for Finjan, Inc.
Email: lkobialka@kramerlevin.com

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