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 ESET, LLC and ESET, SPOL. S.R.O.
 10

11 **UNITED STATES DISTRICT COURT**
 12 **SOUTHERN DISTRICT OF CALIFORNIA**

13 FINJAN, INC.,
 14 Plaintiff,
 15 v.
 16 ESET, LLC, et al.,
 17 Defendants.
 18

Case No. 3:17-cv-0183-CAB-BGS
**ESET, LLC AND ESET, SPOL. S.R.O.’S
 PROPOSED SPECIAL VERDICT
 FORM**

Judge: Hon. Cathy Ann Bencivengo

19 AND RELATED COUNTERCLAIMS.
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1 Pursuant to Civil Local Rule 16.1(f)(9)(b), Defendants ESET, LLC and ESET,
2 spol. s.r.o. (collectively, "ESET") submit their proposed special verdict form.

3 Dated: March 2, 2020

Respectfully submitted,

4 **EVERSHEDS SUTHERLAND (US) LLP**

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6
7 */s/ Nicola A. Pisano*

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1 When answering the following questions and filling out this special verdict form,
2 please follow the directions provided throughout this special verdict form and the final
3 charge to the jury.

4 We, the jury, unanimously find as follows:

5 **I. INFRINGEMENT**

6 **Question 1.** Has Finjan proven by a preponderance of the evidence that any of
7 ESET, LLC or ESET spol. s.r.o.'s accused products infringe any of the claims of the
8 Asserted Patents?

9 A "yes" is a finding for Finjan, a "no" is a finding for ESET, LLC and ESET
10 spol. s.r.o.

11 YES _____ NO _____

12 If you answered "yes," please mark the claim(s) you found to be infringed, the
13 specific products that infringe each such claim, and circle whether you found the
14 infringement to be literal or under the doctrine of equivalents ("DOE") in the table on
15 the following page. If you answered "no," please skip to Question 2.

<u>DESCRIPTION</u>	<u>ACCUSED PRODUCTS</u>
Consumer Windows products	ESET Endpoint Security ESET Endpoint Antivirus ESET Cyber Security ESET Internet Security ESET Mail Security ESET File Security ESET Gateway Security
Consumer Linux products	ESET Mail Security ESET Gateway Security ESET Virtual Environment Security
Consumer Mac products	ESET Cyber Security ESET Mail Security
LiveGrid Reputation System	LiveGrid Reputation System
LiveGrid Feedback System	LiveGrid Feedback System
CMPS	Cloud Malware Protection System
Other (Augur, EDTD/ECMPS, ETI, EI)	Augur (Machine Learning) ESET Dynamic Threat Defense / Enterprise Cloud Malware Protection System ESET Threat Intelligence Enterprise Inspector

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	ESET spol. s.r.o.						ESET, LLC							
	Consumer Windows products	Consumer Linux products	Consumer Mac products	LiveGrid Reputation System	LiveGrid Feedback System	CMPS	Other (Augur, EDTD/ECMPS, ETI, EI)	Consumer Windows products	Consumer Linux products	Consumer Mac products	LiveGrid Reputation System	LiveGrid Feedback System	CMPS	Other (Augur, EDTD/ECMPS, ETI, EI)
'844 Claim 1 (literal / DOE)														
'844 Claim 7 (literal)														
'844 Claim 11 (literal / DOE)														
'844 Claim 15 (literal / DOE)														
'844 Claim 16 (literal / DOE)														
'780 Claim 9 (literal / DOE)														
'780 Claim 13 (literal)														
'086 Claim 24 (literal / DOE)														
'086 Claim 42 (literal / DOE)														
'621 Claim 1 (literal / DOE)														
'621 Claim 6 (literal)														
'621 Claim 7 (literal)														
'621 Claim 10 (literal / DOE)														
'755 Claim 3 (literal / DOE)														
'755 Claim 5 (literal)														
'755 Claim 6 (literal)														

1 **II. INVALIDITY**

2 **Question 2.** Has ESET, LLC and ESET spol. s.r.o. proven by clear and
 3 convincing evidence that any of the claims of the Asserted Patents are invalid due to
 4 being anticipated, obvious, indefinite, abandoned, failing to meet the written description
 requirement, improper inventorship, or failing to be enabled?

5 A “yes” is a finding for ESET, LLC and ESET spol. s.r.o., a “no” is a finding for
 6 Finjan.

7 YES _____ NO _____

8 If you answered “yes,” please mark the claim(s) you found to be invalid.

'844 Patent	Claim 1 _____ Claim 7 _____ Claim 11 _____ Claim 15 _____ Claim 16 _____
'780 Patent	Claim 9 _____ Claim 13 _____ Claim 18 _____
'086 Patent	Claim 1 _____ Claim 9 _____ Claim 24 _____ Claim 42 _____
'621 Patent	Claim 1 _____ Claim 6 _____ Claim 7 _____ Claim 10 _____
'755 Patent	Claim 3 _____ Claim 5 _____ Claim 6 _____

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