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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**  
**AMENDED TRIAL EXHIBIT LIST**  
Judge: Hon. Cathy Ann Bencivengo

19 AND RELATED COUNTERCLAIMS.  
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1 Defendants ESET, LLC and ESET, spol. s.r.o. (collectively, "ESET") submit their  
2 amended trial exhibit list.

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4  
5 Dated: March 6, 2020

Respectfully submitted,

6 **EVERSHEDS SUTHERLAND (US) LLP**

7  
8 */s/ Justin E Gray*

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**APPENDIX B**  
**DEFENDANTS' TRIAL EXHIBIT LIST**

**PLAINTIFF'S OBJECTIONS KEY**

| <b>Objection List</b>  | <b>Abbreviation</b> |
|--|---------------------|
| Hearsay (FRE 801, 802)—The exhibits/testimony are hearsay and do not fall within any hearsay exception.  | H                   |
| Irrelevant (FRE 401, 402)—The exhibits/testimony are inadmissible without any tendency to make the existence of any fact that is of consequence to the determination of the action more or less probable than it would be without them. Finjan notes this objection is used for the purpose for which Defendants offer the exhibit without waiving the right to use the exhibit or evidence for another purpose.                                     | 401, 402            |
| Unfair Prejudice, Confusing, Waste of Time (403) —To the extent that these exhibits/testimony contain any relevant information, they should be excluded because their probative value is substantially outweighed by the danger of unfair prejudice, confusion of issues, or is a mischaracterization of the testimony, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence. | 403                 |
| Violates FRE 401, 402 and 403  | 401-403             |
| Lack of Personal Knowledge/Foundation (FRE 602)—Defendants have not identified a witness with personal knowledge to testify regarding these exhibits. The witness does not have personal knowledge to testify about a matter, the proposed testimony is speculation and/or outside the scope of the 30(b)(6) designation.  | 602                 |
| Improper Lay Opinion (FRE 701)—The exhibits/testimony necessarily rely upon the opinion testimony of a lay witness beyond the scope of what is permitted.  | 701                 |
| Improper Expert Opinion / Testimony (FRE 702)  | 702                 |
| Authenticity—These exhibits have not been authenticated within the meaning of FRE 901. The testimony fails to authenticate the deposition exhibit.   | 901                 |
| Best Evidence (FRE 1001-1003)—The exhibits/testimony fail to satisfy the best evidence rule under FRE 1001-1003.   | 1001-1003           |
| FRE 1006—These exhibits are an improper summary, chart, or calculation.  | 1006                |

**APPENDIX B**  
**DEFENDANTS' TRIAL EXHIBIT LIST**

| Objection List  | Abbreviation |
|---|--------------|
| Privilege (501)   | 501          |
| Improper Character Evidence (404, 608, 609)   | CE           |
| Leading/Waste of Time (611)—The presentation of these exhibits/testimony will result in needless consumption of time and cause witnesses harassment or undue embarrassment. Leading questions should not be used on direct examination of a witness except as may be necessary to develop a witness' testimony. | 611          |
| Compound, Vague, Argumentative, Duplicative, Asked and Answered—The presentation of these exhibits/testimony violate FRE 403 and 611.   | 403, 611     |
| Improper Legal Conclusion (401, 611) or improper evidence of a legal issue decided by the Court   | LC           |
| Subject to motion in limine and/or evidentiary dispute raised in the Pretrial Statement   | EXC          |
| Not Related—Counter Designation is Not Related to Initial Designations  | NR           |
| Documents Not Produced During Discovery   | NP           |
| Multiple documents are listed as a single exhibit   | MD           |
| Incomplete/unintelligible document or testimony   | IC           |
| Not Testimony   | NT           |

**FINJAN'S GENERAL OBJECTIONS**

Finjan objects to all of Eset's Trial Exhibits and discovery response designations to the extent they are precluded by a pending or forthcoming motion, i.e. motions *in limine*, *Daubert* motion, motion to strike, or issue identified in the Pretrial Order or at the forthcoming Pretrial Conference. To the extent any exhibits are introduced for issues outside the scope of the March 9, 2020 trial, Finjan reserves the right to assert additional objections as they arise. Finjan further reserves the right to assert additional objections at the time that Eset introduces the proposed exhibits at trial depending on Eset's ability to properly authenticate, lay the proper foundation and demonstrate the intended use for the admission of the proposed exhibits and/or to admit Eset's discovery responses into evidence.

**APPENDIX B**  
**DEFENDANTS' TRIAL EXHIBIT LIST**

United States District Court  
For the Southern District of California

*Finjan, Inc. v. ESET, LLC and ESET SPOL. S.R.O.*

Case No. 17-cv-00183-CAB      Trial Date: March 9, 2020

| <b>DTX Exh. No.</b> | <b>Date Marked</b> | <b>Date Admitted</b> | <b>Description</b>  | <b>Deposition Exhibit No.</b> | <b>Plaintiff's Objections</b> |
|---------------------|--------------------|----------------------|---|-------------------------------|-------------------------------|
| DTX-6               |                    |                      | Prosecution History for U.S. Patent No. 6,154,844 (FINJAN-ESET 000018 - FINJAN-ESET 000436) |                               |                               |
| DTX-7               |                    |                      | Prosecution History for U.S. Patent No. 6,804,780 (FINJAN-ESET 000455 - FINJAN-ESET 000611) |                               |                               |
| DTX-8               |                    |                      | Prosecution History for U.S. Patent No. 8,079,086 (FINJAN-ESET 001261 - FINJAN-ESET 001818) |                               |                               |
| DTX-9               |                    |                      | Prosecution History for U.S. Patent No. 9,189,621 (FINJAN-ESET 001854 - FINJAN-ESET 003680) |                               |                               |
| DTX-10              |                    |                      | Prosecution History for U.S. Patent No. 9,219,755 (FINJAN-ESET 003718 - FINJAN-ESET 005388) |                               |                               |
| DTX-16              |                    |                      | Server Products Status - Project Board Meeting - May 6, 2014 (ESET0031466 - ESET0031474)    |                               | H, 401-403, 602, 611, 701     |
| DTX-31              |                    |                      | ESET Core R&D Brainstorm6: "HIPS" (ESET0040754 - ESET0040769)                               |                               | H, 401-403, 602, 611, 701     |
| DTX-33              |                    |                      | Signatures are dead. Long live detections! (ESET0041256 - ESET0041257)                      |                               | H, 401-403, 602, 611, 701     |
| DTX-42              |                    |                      | ESS - Task # 778 (ESET0043487 - ESET0043490)  |                               | H, 401-403, 602, 611, 701     |
| DTX-54              |                    |                      | Technology Division - 2014, week16 (ESET0044271 - ESET0044274)                              |                               | H, 401-403, 602, 611, 701     |

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