

1 PAUL ANDRE (State Bar No. 196585)
pandre@kramerlevin.com
2 LISA KOBIALKA (State Bar No. 191404)
lkobialka@kramerlevin.com
3 JAMES HANNAH (State Bar No. 237978)
jhannah@kramerlevin.com
4 KRAMER LEVIN NAFTALIS & FRANKEL LLP
5 990 Marsh Road
6 Menlo Park, CA 94025
7 Telephone: (650) 752-1700
8 Facsimile: (650) 752-1800

8 *Attorneys for Plaintiff*
9 FINJAN, INC.

10 **IN THE UNITED STATES DISTRICT COURT**
11 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

12
13 FINJAN, INC., a Delaware Corporation,

14 Plaintiff,

15 v.

16 ESET, LLC, a California Limited Liability
17 Corporation, and ESET SPOL. S.R.O., a Slovak
18 Republic Corporation,

19 Defendants.
20
21
22
23
24
25
26
27
28

Case No.:

**COMPLAINT FOR PATENT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Finjan, Inc. (“Finjan”) files this Complaint for Patent Infringement and Demand for Jury Trial against ESET, LLC and ESET SPOL. S.R.O. (“Defendants” or “ESET”) and allege as follows:

THE PARTIES

1. Finjan is a Delaware Corporation, with its principal place of business at 2000 University Avenue, Suite 600, E. Palo Alto, California 94303.

2. ESET, LLC is a California Corporation with its principal place of business at 610 West Ash Street, Suite 1700, San Diego, California 92101. ESET, LLC may be served through its agent for service of process Andrew Lee at 610 West Ash Street, Suite 1700, San Diego, CA 92101. ESET, LLC is also known as ESET North America.

3. ESET SPOL. S.R.O is a Slovak Republic Corporation with its principal place of business at Aupark Tower, 16th Floor, Einsteinova 24, 851 01 Bratislava, Slovak Republic. Upon information and belief, ESET, LLC is a wholly-owned subsidiary of ESET SPOL. S.R.O.

JURISDICTION AND VENUE

4. This action arises under the Patent Act, 35 U.S.C. § 101 *et seq.* This Court has original jurisdiction over this controversy pursuant to 28 U.S.C. §§ 1331 and 1338.

5. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b) and (c) and/or 1400(b).

6. This Court has personal jurisdiction over Defendants. Upon information and belief, Defendants do business in this District and have, and continues to, infringe and/or induce the infringement in this District. In addition, the Court has personal jurisdiction over Defendants because minimum contacts have been established with the forum and the exercise of jurisdiction would not offend traditional notions of fair play and substantial justice.

INTRADISTRICT ASSIGNMENT

1
2 7. Pursuant to Local Rule 3-2(c), Intellectual Property Actions are assigned on a district-
3 wide basis.

FINJAN'S INNOVATIONS

4
5 8. Finjan was founded in 1997 as a wholly-owned subsidiary of Finjan Software Ltd., an
6 Israeli corporation. Finjan was a pioneer in developing proactive security technologies capable of
7 detecting previously unknown and emerging online security threats recognized today under the
8 umbrella of "malware." These technologies protect networks and endpoints by identifying suspicious
9 patterns and behaviors of content delivered over the Internet. Finjan has been awarded, and continues
10 to prosecute, numerous patents covering innovations in the United States and around the world
11 resulting directly from Finjan's more than decades-long research and development efforts, supported
12 by a dozen inventors, and over \$65 million in R&D investments.

13
14 9. Finjan built and sold software, including application programming interfaces (APIs), and
15 appliances for network security using these patented technologies. These products and customers
16 continue to be supported by Finjan's licensing partners. At its height, Finjan employed nearly 150
17 employees around the world building and selling security products and operating the Malicious Code
18 Research Center through which it frequently published research regarding network security and current
19 threats on the Internet. Finjan's pioneering approach to online security drew equity investments from
20 two major software and technology companies, the first in 2005, followed by the second in 2006.
21 Through 2009, Finjan generated millions of dollars in product sales and related services and support
22 revenues. Finjan became a publicly traded company in June 2013, capitalized with \$30 million. After
23 Finjan's obligations under the non-compete and confidentiality agreement expired in March 2015,
24 Finjan re-entered the development and production sector of secure products for the consumer market.
25
26
27
28

1 10. On November 28, 2000, U.S. Patent No. 6,154,844 (“the ‘844 Patent”), entitled
2 SYSTEM AND METHOD FOR ATTACHING A DOWNLOADABLE SECURITY PROFILE TO A
3 DOWNLOADABLE, was issued to Shlomo Touboul and Nachshon Gal. A true and correct copy of
4 the ‘844 Patent is attached to this Complaint as Exhibit A and is incorporated by reference herein.

5 11. All rights, title, and interest in the ‘844 Patent have been assigned to Finjan, who is the
6 sole owner of the ‘844 Patent. Finjan has been the sole owner of the ‘844 Patent since its issuance.

7 12. The ‘844 Patent is generally directed towards computer networks, and more
8 particularly, provides a system that protects devices connected to the Internet from undesirable
9 operations from web-based content. One of the ways this is accomplished is by linking a security
10 profile to such web-based content to facilitate the protection of computers and networks from
11 malicious web-based content.

12 13. On October 12, 2004, U.S. Patent No. 6,804,780 (“the ‘780 Patent”), entitled SYSTEM
13 AND METHOD FOR PROTECTING A COMPUTER AND A NETWORK FROM HOSTILE
14 DOWNLOADABLES, was issued to Shlomo Touboul. A true and correct copy of the ‘780 Patent is
15 attached to this Complaint as Exhibit B and is incorporated by reference herein.

16 14. All rights, title, and interest in the ‘780 Patent have been assigned to Finjan, which is
17 the sole owner of the ‘780 Patent. Finjan has been the sole owner of the ‘780 Patent since its issuance.

18 15. The ‘780 Patent is generally directed towards methods and systems for generating a
19 Downloadable ID. By generating an identification for each examined Downloadable, the system may
20 allow for the Downloadable to be recognized without reevaluation. Such recognition increases
21 efficiency while also saving valuable resources, such as memory and computing power.

22 16. On July 5, 2011, U.S. Patent No. 7,975,305 (“the ‘305 Patent”), entitled METHOD
23 AND SYSTEM FOR ADAPTIVE RULE-BASED CONTENT SCANNERS FOR DESKTOP
24

1 COMPUTERS, was issued to Moshe Rubin, Moshe Matitya, Artem Melnick, Shlomo Touboul,
2 Alexander Yermakov and Amit Shaked. A true and correct copy of the '305 Patent is attached to this
3 Complaint as Exhibit C and is incorporated by reference herein.

4 17. All rights, title, and interest in the '305 Patent have been assigned to Finjan, who is the
5 sole owner of the '305 Patent. Finjan has been the sole owner of the '305 Patent since its issuance.

6 18. The '305 Patent is generally directed towards network security and, in particular, rule
7 based scanning of web-based content for exploits. One of the ways this is accomplished is by using
8 parser and analyzer rules to describe computer exploits as patterns of types of tokens. Additionally,
9 the system provides a way to keep these rules updated.

10 19. On December 13, 2011, U.S. Patent No. 8,079,086 ("the '086 Patent"), entitled
11 MALICIOUS MOBILE CODE RUNTIME MONITORING SYSTEM AND METHODS, was issued
12 to Yigal Mordechai Edery, Nimrod Itzhak Vered, David R Kroll and Shlomo Touboul. A true and
13 correct copy of the '086 Patent is attached hereto as Exhibit D and is incorporated herein.

14 20. All rights, title, and interest in the '086 Patent have been assigned to Finjan, who is the
15 sole owner of the '086 Patent. Finjan has been the sole owner of the '086 Patent since its issuance.

16 21. The '086 Patent is generally directed towards computer networks and, more
17 particularly, provides a system that protects devices connected to the Internet from undesirable
18 operations from web-based content. One of the ways this is accomplished is by creating a profile of
19 the web-based content and sending these profiles and corresponding web-content to another computer
20 for appropriate action.

21 22. On November 17, 2015, U.S. Patent No. 9,189,621 ("the '621 Patent"), entitled
22 MALICIOUS MOBILE CODE RUNTIME MONITORING SYSTEM AND METHODS, was issued
23

24

25

26

27

28

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.