

1 PAUL J. ANDRE (State Bar No. 196585)

2 pandre@kramerlevin.com

3 LISA KOBIALKA (State Bar No. 191404)

4 lkobialka@kramerlevin.com

5 JAMES HANNAH (State Bar No. 237978)

6 jhannah@kramerlevin.com

7 KRAMER LEVIN NAFTALIS & FRANKEL LLP

8 990 Marsh Road

9 Menlo Park, CA 94025

10 Telephone: (650) 752-1700

11 Facsimile: (650) 752-1800

12 *Attorneys for Plaintiff*

13 FINJAN, INC.

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

17 FINJAN, INC., a Delaware Corporation,

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

18 Plaintiff,

**PLAINTIFF FINJAN, INC.’S  
SUPPLEMENTAL INFORMATION  
IN SUPPORT OF CLAIM  
CONSTRUCTION REGARDING THE  
TERM “ENGINE”**

19 v.

20 ESET, LLC, a California Limited  
21 Liability Corporation, and ESET SPOL.  
22 S.R.O., a Slovak Republic Corporation,

23 Defendants.

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

27 Counterclaim-Plaintiffs,

28 v.

FINJAN, INC., a Delaware Corporation,

Counterclaim-Defendant.

1 Finjan, Inc. (“Finjan”) was not able to locate any case law where the claim term  
2 “engine” preceded by a descriptive modifier was determined to be a nonce term,<sup>1</sup> and no  
3 decisions where “engine” was construed as a means-plus-function limitation when used  
4 in the claims. Instead, Finjan was able to locate hundreds of publications where those  
5 skilled in the art describe a variety of “engine” types demonstrating that “engine,” when  
6 used with a particular descriptive modifier (e.g., “antivirus engine,” “scanning engine,”  
7 “communication engine,” etc.) , is a term that is well understood by those of skill in the  
8 art and often used in software programming to describe the structure of a computer  
9 program.<sup>2</sup> Submitted herewith is a sampling of those publications and references  
10 ranging from 1992 through the present. Upon request, Finjan is able to provide  
11 numerous additional publications and references discussing other types of engines.

- 12 1. Attached as Exhibit 1 is an excerpt from the prosecution history of U.S.  
13 Patent No. 9,189,621. Exhibit 1 describes a “mutation engine” and shows  
14 the reference “Dark Avenger Mutation Engine No Threat to Protected  
15 PCs,” dated May 11, 1992.
- 16 2. Attached as Exhibit 2 is U.S. Patent No. 5,680,547, entitled “Method and  
17 Apparatus for Controlling Network and Workstation Access Prior to  
18 Workstation Boot,” which was filed on August 8, 1995. Exhibit 2  
describes an “executable services engine.”
- 19 3. Attached as Exhibit 3 is Finjan’s U.S. Patent No. 6,154,844, which was  
20 filed on December 22, 1997. Exhibit 3 describes a “protection engine,” a  
21 “content inspection engine,” a “security policy analysis engine,” a  
22 “Downloadable ID verification engine,” “Downloadable development  
23 engine,” a “network protection engine,” a “communications engine,” and a  
24 “web server engine.” Further, Claim 15, an asserted claim in this case,  
describes “content inspection engine.”

25 <sup>1</sup> The only case Eset submitted that mentions an “engine” is a PTAB case (*Ex parte Smith*) where “engine” was not even a claim term.

26 <sup>2</sup> By providing these references to the Court, Finjan is in no way admitting that the  
27 attached are relevant as prior art.  
28

- 1 4. Attached as Exhibit 4 is a press release entitled “Symantec Announces  
2 Norton Antivirus for Firewalls for Maximum Protection from Internet-  
3 Borne Viruses,” dated May 6, 1997. Exhibit 4 describes the “Norton  
4 AntiVirus Engine.”
- 5 5. Attached as Exhibit 5 is U.S. Patent No. 6,029,256, entitled “Method and  
6 System for Allowing Computer Programs Easy Access to Features of a  
7 Virus Scanning Engine,” which was filed on December 31, 1997. Exhibit  
8 5 describes a “virus scan engine.”
- 9 6. Attached as Exhibit 6 is a true and correct copy of the abstract of an article  
10 entitled “Bugs in the Web,” dated in 1997. Exhibit 6 describes an “e-mail  
11 scanning engine” and “virus scanning engine.”
- 12 7. Attached as Exhibit 7 is an article from the 7<sup>th</sup> USENIX Security  
13 Symposium entitled “Data Mining Approaches for Intrusion Detection,”  
14 dated January 1998. Exhibit 7 describes a “detection engine.”
- 15 8. Attached as Exhibit 8 is the abstract for an article entitled “PicoJava: a  
16 direct execution engine for Java Bytecode,” dated October 1998. Exhibit 8  
17 describes an “execution engine.”
- 18 9. Attached as Exhibit 9 is an excerpt from the prosecution history of the ‘621  
19 Patent. Exhibit 9 shows the reference, “Heuristic Engines,” dated  
20 September 2001.
- 21 10. Attached as Exhibit 10 is an article from Symantec Community, entitled  
22 “Open AV: Developing Open Source AntiVirus Engines,” dated December  
23 16, 2002. Exhibit 10 describes an “antivirus engine” and “detection  
24 engine.”
- 25 11. Attached as Exhibit 11 is an article from the SFGate entitled “Best  
26 antivirus software for 2005/Viruses and worms just keep getting smarter  
27 and more devious,” dated November 29, 2004. Exhibit 11 describes an  
28 “antivirus engine.”
12. Attached as Exhibit 12 is an article from ESET entitled “ESET Update  
Boosts Engine Scanning Speed,” dated July 12, 2010. Exhibit 12 describes  
ESET’s “scanning engine.”

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13. Attached as Exhibit 13 is ESET's webpage entitled "ESET leading-edge technology," as it exists today. Exhibit 13 describes ESET's "scanning engine" and "detection engine."
  14. Attached as Exhibit 14 is a true and correct copy of the Wikipedia.org webpage entitled "Comparison of antivirus software," as it exists today. Exhibit 14 describes an "antivirus engine."

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Respectfully submitted,

DATED: October 2, 2017

By: s/ James Hannah  
Paul J. Andre (State Bar. No. 196585)  
Lisa Kobialka (State Bar No. 191404)  
James Hannah (State Bar No. 237978)  
KRAMER LEVIN NAFTALIS  
& FRANKEL LLP  
990 Marsh Road  
Menlo Park, CA 94025  
Telephone: (650) 752-1700  
Facsimile: (650) 752-1800  
pandre@kramerlevin.com  
lkobialka@kramerlevin.com  
jhannah@kramerlevin.com

*Attorneys for Plaintiff*  
FINJAN, INC.

# Exhibit 1

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