

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

FINJAN LLC,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 20-371 (LPS)
)	
TRUSTWAVE HOLDINGS, INC. and)	PUBLIC VERSION
SINGAPORE TELECOMMUNICATIONS)	Filed September 10, 2021
LIMITED,)	
)	
Defendants.)	

**DEFENDANT SINGAPORE TELECOMMUNICATIONS LIMITED'S
SUPPLEMENTAL BRIEF IN SUPPORT OF RENEWED MOTION
TO DISMISS FOR LACK OF PERSONAL JURISDICTION**

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September 1, 2021

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Singtel filed its Renewed Motion to Dismiss for Lack of Personal Jurisdiction in September 2020. It was fully briefed by January 2021 and argued in May 2021. Following that, Finjan was allowed to take jurisdictional discovery. After all that, Finjan's arguments for personal jurisdiction over Singtel are notably hollow, both legally and factually.

First, Finjan argues that Singtel "consented" to jurisdiction in Delaware by virtue of the forum selection clause in the 2012 Agreement between Finjan and Trustwave. The plain language of the forum selection clause, however, makes clear that it applies only to "the parties hereto." Singtel has never been a party to the 2012 Agreement. This language cannot be read out of the 2012 Agreement nor trumped by the more general provision on which Finjan relies. It must be given effect, namely, that Singtel, a non-party, is not bound by the forum selection clause. This is reinforced by the fact that another the preceding provision of the 2012 Agreement (Section 2.4) specifically requires third-party participants to sign an "assumption agreement" binding them to its terms.

Moreover, even if the forum selection clause did apply to Singtel, Finjan cannot satisfy critical components of Delaware's three-part test for binding a non-party to a forum selection clause. Finjan cannot show that it was "foreseeable" that Singtel would be bound by the forum selection clause in a contract that was negotiated and signed three years before Singtel acquired Trustwave, with no evidence that Singtel gave any consideration to the forum selection clause at the time of the acquisition. Finjan also cannot show that Singtel received a "direct benefit" from the 2012 Agreement; all the supposed benefits to Singtel, as identified by Finjan, would have flowed indirectly through Trustwave, merely as a result of Singtel's ownership of Trustwave.

Second, Finjan argues that Singtel is subject to jurisdiction through the specific jurisdiction provisions of Delaware's long-arm statute. But Finjan does not identify a single act by Singtel

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