

**MORRIS, NICHOLS, ARSHT & TUNNELL LLP**

1201 NORTH MARKET STREET  
P.O. BOX 1347  
WILMINGTON, DELAWARE 19899-1347

(302) 658-9200  
(302) 658-3989 FAX

**JACK B. BLUMENFELD**

(302) 351-9291  
(302) 425-3012 FAX  
jblumenfeld@morrisnichols.com

September 17, 2021

*VIA ELECTRONIC FILING*

The Honorable Leonard P. Stark  
United States District Court  
For the District of Delaware  
844 North King Street  
Wilmington, DE 19801

Re: *Finjan, Inc. v. Trustwave Holdings, Inc., et al.*  
C.A. No. 20-371 (LPS)

Dear Judge Stark:

Plaintiff Finjan LLC and Defendant Singapore Telecommunications Ltd. hereby provide a status report as requested by the Court during the September 13, 2021 hearing.

*Singtel's Position*

Defendant Singapore Telecommunications Ltd. (“Singtel”) hereby provides its portion of the joint status report requested by Your Honor during the September 13, 2021 oral argument on Singtel’s Renewed Motion to Dismiss for lack personal jurisdiction (D.I. 31) (“Motion to Dismiss”) and Singtel’s alternative Motion to Stay Plaintiff Finjan, LLC’s (“Finjan”) Claim for Breach of Contract (D.I. 64) (“Motion to Stay”).

At the conclusion of the oral argument on Monday, September 13, Your Honor asked Singtel if it would agree to an alternative manner of the Court addressing Singtel’s motions. Singtel respectfully accepts Your Honor’s suggestion<sup>1</sup> whereby Singtel will agree to a stay on further proceedings and ruling on Singtel’s Motion to Dismiss concerning the Breach of Contract claim if the Court grants Singtel’s Motion to Dismiss with respect to Finjan’s claim for infringement of the ’154 Patent and stays further proceedings on Finjan’s claim for breach of contract pending final adjudication of the Superior Court case *Finjan, Inc. v. Trustwave Holdings, Inc.*, C.A. No. N18C-04-006-WCC [CCLD].

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<sup>1</sup> Finjan disagrees that the Court suggested this manner of addressing the two motions in lieu of the Court issuing a ruling at this time.

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Singtel understood Your Honor's request during the hearing to be limited to potential resolution of the Motion to Dismiss and Motion to Stay, not yet another round of briefing on these motions. Finjan had ample opportunity to raise its points during the multiple rounds of briefing and multiple arguments on Singtel's Motion to Dismiss. Finjan's position does not represent an effort to reach an extrajudicial resolution of the pending motions, which was what Your Honor requested. Instead, Finjan's position reargues both motions and notably fails to include any hint of compromise.

### Finjan's Position

Plaintiff Finjan LLC ("Finjan") respectfully requests that the Court deny Singtel's motion to dismiss in its entirety and to dismiss Singtel's motion to stay.

Finjan understands Singtel's proposal above to be that: (1) The Court will stay its ruling on Singtel's personal jurisdiction motion to the extent it applies to Finjan's breach of contract claim; (2) The Court will grant Singtel's personal jurisdiction motion to the extent it applies to Finjan's patent infringement claim; and (3) the Court will grant Singtel's motion to stay Finjan's breach of contract claim.

If Finjan's understanding is correct, Singtel's proposal is unacceptable for a number of reasons.

First, Singtel makes no meaningful concessions. It essentially gets all its requested relief, and Finjan is left unable to proceed against Singtel in either federal *or* state court.

Second, under Singtel's proposal, Singtel unilaterally controls the scope and order of litigation in both courts. Singtel has yet to represent that it will join, fully participate in, and be bound by the Superior Court action. Instead, Singtel wants to remain on the sidelines while Trustwave litigates, but as Finjan noted at the hearing, Singtel's liability is broader than Trustwave's and includes Singtel sales outside of Trustwave.

Third, even if the comments of Singtel's counsel suggesting that Trustwave would provide discovery regarding Singtel's sales in the Superior Court action and that Trustwave would satisfy any money judgment against Trustwave including royalties on Singtel and Trustwave sales under the Finjan-Trustwave license were binding and accurate, the parties have been instructed by Judge Carpenter that Singtel's liability needs to be resolved in federal court. There is no reason to believe his views on that point have changed.

Fourth, if personal jurisdiction over Singtel on the contract claim remains undecided, it is unclear how the Court could grant Singtel's motion to stay that contract claim.

Finally, even if Finjan attempted to pursue claims against Singtel directly in Superior Court, Singtel would certainly challenge jurisdiction on the same grounds it has here, resulting in an inefficient use of the parties' and both courts' resources and time.

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If Finjan cannot pursue a breach of contract claim against Singtel in this Court (either because the Court's decision on Singtel's motion to dismiss is stayed, or because the breach claim against Singtel is stayed), Finjan will be effectively deprived of its ability to obtain a remedy for Singtel's ongoing, wide-ranging breach of the 2012 Contract. Thus, nothing raised at the September 13 hearing, or otherwise raised after the parties' briefing, has changed Finjan's view that its contract and patent claims against Singtel should proceed in this Court. There is no reason to delay ruling on Singtel's motion to dismiss for an indeterminate amount of time, or to stay Finjan's breach claim against Singtel, while narrower claims against another party go forward in another court.

For these reasons, Finjan proposes that the Court decide Singtel's personal jurisdiction motion with respect to both of Finjan's claims (breach of contract and patent infringement), and Singtel's motion to stay. Finjan respectfully requests that the Court deny both motions, for the reasons stated in its briefing, at argument, and above.

Respectfully,

*/s/ Jack B. Blumenfeld*

Jack B. Blumenfeld (#1014)

cc: All Counsel of Record (via electronic mail)