

1 PAUL J. 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
Facsimile: (650) 752-1800

8 *Attorneys for Plaintiff*
9 FINJAN, INC.

10
11 **IN THE UNITED STATES DISTRICT COURT**
12 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
13 **SAN FRANCISCO DIVISION**

14 FINJAN, INC., a Delaware Corporation,
15 Plaintiff,
16 v.
17 WEBSense, INC., a Delaware Corporation,
18 Defendant.

Case No.: 14-cv-01353 EDL
**PLAINTIFF FINJAN, INC.'S DISCLOSURE
OF ASSERTED CLAIMS AND
INFRINGEMENT CONTENTIONS AND
DOCUMENT PRODUCTION
ACCOMPANYING DISCLOSURE
PURSUANT TO PATENT L.R. 3-1 AND 3-2**



1 Pursuant to Patent Local Rules 3-1 and 3-2 of the United States District Court for the Northern
2 District of California, Plaintiff Finjan, Inc. (“Finjan”) makes the following Disclosure of Asserted
3 Claims and Infringement Contentions and Document Production Accompanying Disclosure, including
4 the attached claim chart (the “Disclosure”) to Websense, Inc. (“Websense” or “Defendant”).

5 Finjan makes this Disclosure based upon information presently known and reasonably available
6 to it as of this date. Because Finjan’s investigations are ongoing, and because Websense has yet to
7 produce any documents in this litigation, Finjan’s contentions are necessarily provisional, and
8 accordingly reserves the right to amend, modify, supplement, or narrow any portion of this Disclosure,
9 including, but not limited to, the identification of the claims infringed by Defendants, the products
10 and/or services accused of infringement and the bases and manner of infringement described in this
11 Disclosure. Furthermore, Finjan reserves the right to supplement this Disclosure as necessary and in
12 accordance with the Federal Rules of Civil Procedure and this Court’s Local Rules, including Patent
13 Local Rule 3-6, in light of future document production, interrogatory responses, admissions,
14 disclosures, fact witness testimony, expert discovery, other additional discovery, future rulings from
15 the Court (including claim construction), any amendments to the pleadings, any additional items of
16 evidence, and/or for any other reason authorized by statute, rule, or applicable case law. Finjan further
17 reserves the right to supplement this Disclosure in light of Defendants’ contentions, including
18 Defendants’ identification of which claim elements it contends are not present in Defendants’ products
19 and/or services, and the bases for any such contentions. Finjan further reserves the right to rely upon
20 the opinions of one or more experts in support of its infringement contentions in accordance with the
21 Court’s scheduling order.

22 To the maximum degree allowed by the Federal Rules of Civil Procedure and the Court’s
23 Local Rules, Finjan reserves its right to supplement, amend, modify and/or narrow this Disclosure as
24 the extent of infringement becomes more fully known, the Court makes any relevant rulings (including
25 claim construction), and the case develops over the course of discovery.

1 (“CSI”) Service and ThreatSeeker Intelligence Cloud Service, identified in the attached Appendix D
2 (“Accused Instrumentalities of the ‘494 Patent”)

3 Finjan further asserts that at least the products and/or services identified as Accused
4 Instrumentalities in the exhibits identified at Section I(C) below, and incorporated herein by reference,
5 infringe one or more Asserted Claims as specified in those exhibits.

6 Due to the early stage of this litigation, the lack of discovery to date (including discovery
7 concerning Defendant’s products and services), and the absence of a claim construction order, the
8 above identification is necessarily limited and preliminary in nature. Finjan anticipates that discovery
9 will reveal additional Accused Instrumentalities, products, features and/or services that infringe the
10 ‘494 Patent. Finjan reserves the right to amend, modify, supplement, or narrow these contentions
11 pursuant to Patent Local Rule 3-6, including identifying additional Accused Instrumentalities,
12 products, features and/or services, as it obtains additional information over the course of discovery and
13 in light of the Court’s claim construction order.

14 **C. Claim Charts Identifying Claim Elements Present In Accused**
15 **Instrumentalities.**

16 Based on the information presently known to Finjan, and without the benefit of relevant
17 discovery or the Court’s claim construction, Finjan provides the following appendix pursuant to Patent
18 Local Rule 3-1(c): the attached Appendix A (which shows how the Accused Instrumentalities of the
19 ‘494 Patent and other products/services infringe each of the asserted claims of the ‘494 Patent)
20 (“Appendix”).

21 The Appendix is incorporated by reference as if fully set forth herein. The Appendix is
22 exemplary and not limiting, and address the Asserted Claims without the benefit of full discovery.
23 Any citations included in the Appendix is exemplary only and is not limiting. In the attached
24 Appendix, Finjan has subdivided each Asserted Claim to explain where the respective Accused
25 Instrumentalities and other products/services meet each claim element. The subdivisions in the
26 Appendix is not to be taken as an indication of the boundaries of claim elements with respect to
27

1 doctrine of equivalents, or any other issue. Additionally, the Accused Instrumentalities and
2 Defendant's other products/services may infringe the Asserted Claims in multiple ways. Finjan
3 reserves the right to provide an alternative claim mapping or infringement contentions for such
4 Accused Instrumentalities or other products and/or services. Finjan further reserves the right to rely
5 upon the opinions of one or more experts in support of its infringement contentions in accordance with
6 the Court's scheduling order.

7 Due to the early stage of this litigation, the lack of discovery to date (including discovery
8 concerning Defendant's products and services), and the absence of a claim construction order, the
9 above disclosures, including the Appendix itself, is necessarily limited and preliminary in nature.
10 Finjan reserves the right to amend, modify, supplement, or narrow these contentions pursuant to Patent
11 Local Rule 3-6, including providing additional bases of infringement, as it obtains additional
12 information over the course of discovery and in light of the Court's claim construction order.

13 **D. Identification Of Direct Infringement Underlying Allegations Of Indirect**
14 **Infringement And Description Of Acts Of Indirect Infringement.**

15 Based on the information presently known to Finjan, and without the benefit of relevant
16 discovery or the Court's claim construction, Finjan provides the following contentions pursuant to
17 Patent Local Rule 3-1(d):

18 Defendant induces infringement of claims 1, 2, 5-7, and 9 of the '494 Patent pursuant to 35
19 U.S.C. § 271(b), by taking active steps to cause infringement of claims 1, 2, 5-7, and 9 of the '494
20 Patent, pursuant to 35 U.S.C. § 271(b), with both knowledge of the '494 Patent and the specific intent
21 to cause, instruct, direct and/or require third parties, including its customers, subscribers, users and
22 developers, to use TRITON Products, Web Security Gateway Products, Data Security Products, the
23 CyberSecurity Intelligence ("CSI") Service and ThreatSeeker Intelligence Cloud Service in a manner
24 that infringes claims 1, 2, 5-7, and 9 of the '494 Patent. Such steps include, but is not limited to,
25 advising third parties to use TRITON Products, Web Security Gateway Products, Data Security
26 Products, the CyberSecurity Intelligence ("CSI") Service and ThreatSeeker Intelligence Cloud Service

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.