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FINJAN, INC.
9

10   IN THE UNITED STATES DISTRICT COURT

11   FOR THE NORTHERN DISTRICT OF CALIFORNIA

12   SAN FRANCISCO DIVISION

13

14   FINJAN, INC.,   Case No.: 5:13-cv-05808-HSG

15   Plaintiff,   **DECLARATION OF NENAD**
                                            MEDVIDOVIĆ IN SUPPORT OF
16   v.   **FINJAN'S OPENING CLAIM**
                                            CONSTRUCTION BRIEF
17   PROOFPOINT, INC. and ARMORIZE
18   TECHNOLOGIES, INC.,

19   Defendants.   Date: June 24, 2015
                                            Time: 10:00 AM
20   Courtroom: Courtroom 15, 18th Floor
                                            Judge: Hon. Haywood S. Gilliam, Jr.
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DECLARATION OF NENAD MEDVIDOVIĆ IN SUPPORT   CASE NO. 5:13-cv-05808-HSG
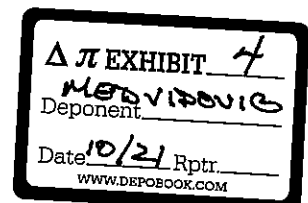
I, Nenad Medvidović, declare:

1.   I make this Declaration based upon my own personal knowledge, information, and belief, and I would and could competently testify to the matters set forth herein if called upon to do so.

Qualifications

2.   I received a Bachelor of Science ("BS") degree, Summa Cum Laude, from Arizona State University's Computer Science and Engineering department.

3.   I received a Master of Science ("MS") degree from the University of California at Irvine's Information and Computer Science department.

4.   I received a Doctor of Philosophy ("PhD") degree from the University of California at Irvine's Information and Computer Science department. My dissertation was entitled, "Architecture-Based Specification-Time Software Evolution."

5.   I am employed by the University of Southern California ("USC") as a faculty member in the Computer Science Department, and have been since January 1999. I currently hold the title of Professor with tenure. Between January 2009 and January 2013, I served as the Director of the Center for Systems and Software Engineering at USC. Since July 2011, I have served as my Department's Associate Chair for PhD Affairs.

6.   I am very familiar with and have substantial expertise in the area of software systems development / software engineering, software architecture, software design, and distributed systems.

7.   I have over twenty years of research experience that has spanned a wide range of issues pertaining to large, complex, distributed software systems. This research has included security and trust as significant components. As one example, my research has resulted in a new technique that deploys a software system on a set of distributed computers in a manner that optimizes that system's "non-functional" characteristics, including efficiency, scalability, resource consumption, reliability, as

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1 well as security. As another example, motivated by the frequent vulnerability of distributed systems to

2 malicious adversaries, I have developed, published, and eventually patented a novel technique for

3 ensuring system security and data privacy in open computer networks. I have co-authored a widely

4 adopted textbook on software system architectures, in which several chapters deal with the issue of

5 security and one entire chapter is specifically dedicated to security and trust.

6 **Materials Reviewed**

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8   8.   I have reviewed in detail U.S. Patent Nos. 6,154,844 ("the '844 Patent"); 7,058,822

9 ("the '822 Patent"); 7,613,918 ("the '918 Patent"); 7,647,633 ("the '633 Patent"); 7,975,305 ("the '305

10 Patent"); 8,079,086 ("the '086 Patent"); 8,141,154 ("the '154 Patent"); and 8,225,408 ("the '408

11 Patent"); (collectively "Finjan Patents"). Declaration of James Hannah in Support of Finjan's Opening

12 Claim Construction Brief ("Hannah Decl.") filed herewith, Exs. 1-8. I have also reviewed the

13 prosecution history of the Finjan Patents.

14   9.   I understand that I am submitting this Declaration to assist the Court in determining the

15 proper construction of certain terms used in the claims in the Finjan Patents. I have reviewed the Joint

16 Claim Construction and Pre-Hearing Statement Pursuant to Patent Local Rule 4-3, which I understand

17 was submitted jointly by Finjan and Defendants and sets forth their respective proposed claim

18 construction and support therefore. I have also reviewed the terms that I understand were selected by

19 Finjan and Defendants for construction.

20 **Construction of the Terms**

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22   10.   I have reviewed Finjan's and Defendants' proposed constructions for the terms in the

23 claims of the Finjan Patents. Based on my experience, the Finjan Patents and the file histories of the

24 Finjan Patent, my opinion of a person of skill in the art is a person with a bachelor's degree in

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1   computer science or related field, and either (1) two or more years of industry experience and/or (2) an

2   advanced degree in computer science or related field.

3   11.   I understand that Finjan and/or Defendants have disputes regarding the constructions for

4   the claims terms listed below:

5   **a) *Construction of the Terms of the '822 Patent and '633 Patent***

6   12.   I address the terms for the '822 Patent and '633 Patent together, as the patents are

7   related and share a specification. I understand that Finjan and/or Defendants have disputes regarding

8   the constructions for the claims terms listed below:

Claim Term	Finjan's Proposed Construction	Defendants' Proposed Construction
mobile protection code	code capable of monitoring or intercepting potentially malicious code	code communicated to at least one information-destination that, at runtime, monitors or intercepts actually or potentially malicious code operations
receiving means for receiving, at an information re-communicator, downloadable-information, including executable code	Governed by 35 U.S.C. § 112(6): **Function:** receiving downloadable information **Structure:** information re-communicator	Governed by 35 U.S.C. § 112(6): **Function:** receiving downloadable-information, including executable code **Structure:** the algorithm disclosed in col. 6, l. 56 – col. 9, l. 62 and Figs 1a-c, 2, 3
mobile code means communicatively coupled to the receiving means for causing mobile protection code to be executed by a mobile code executor at a downloadable-information destination	Governed by 35 U.S.C. § 112(6): **Function:** causing mobile protection code to be executed by a mobile code executor at	Governed by 35 U.S.C. § 112(6): **Function:** communicatively coupled to the receiving

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DECLARATION OF NENAD MEDVIDOVIĆ IN SUPPORT   CASE NO. 5:13-cv-05808-HSG

	a downloadable-information destination **Structure:** packaging engine	means, and causing mobile protection code to be executed by a mobile code executor at a downloadable-information destination such that one or more operations of the executable code at the destination, if attempted, will be processed by the mobile protection code **Structure:** the algorithm disclosed in Figs 7a, 7b and 8, and at col. 17, l. 34 – col. 18, l. 34
information-destination/downloadable-information destination	No construction necessary—Plain and ordinary meaning	a user computer that receives and initiates (or otherwise hosts) execution of the downloadable information

(1) mobile protection code

13.   Based on my professional experience, a person of ordinary skill in the art would understand the meaning of the term "mobile protection code" in view of the specification of the '822 Patent as "code capable of monitoring or intercepting potentially malicious code." While Mobile Protection Code is not a term typically used in the art, the meaning of the term is described in the '822 Patent. Finjan's proposed construction is correct because it is consistent with the intrinsic record of the '822 Patent. For example, the '822 Patent states that: "[t]he sandboxed package includes mobile protection code ("MPC") for causing one or more predetermined malicious operations or operation combinations of a Downloadable to be monitored or otherwise intercepted." '822 Patent, Col. 3, ll. 6-10; '633 Patent, Col. 3, ll. 7-11. Finjan's proposed construction is also accurate in that it requires the intercepting to be of "potentially malicious code," consistent with the purpose of the mobile protection

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DECLARATION OF NENAD MEDVIDOVIĆ IN SUPPORT   CASE NO. 5:13-cv-05808-HSG

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