

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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PALO ALTO NETWORKS, INC.,  
Petitioner,

v.

FINJAN, INC.,  
Patent Owner.

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Case IPR2016-00157  
Case IPR2015-02001  
Patent 8,255,408

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**PATENT OWNER'S OBJECTIONS TO EVIDENCE  
UNDER 37 C.F.R. § 42.64<sup>1</sup>**

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<sup>1</sup> The word-for-word identical paper is filed in each proceeding identified in the caption.

Patent Owner Finjan, Inc. ("Finjan) objects under the Federal Rules of Evidence and 37 C.F.R. § 42.64(b)(1) to the admissibility of the following exhibits submitted by Palo Alto Networks ("Petitioner"):

- The Declaration of Dr. Aviel Rubin (the "Rubin Declaration") (Exhibit 1002); and
- Exhibits 1007, 1010, 1013, 1014, 1016, 1018, 1020, 1023, 1024, 1025, 1026, 1027, 1028, 1029, 1030, 1031, 1032, 1033, 1034, 1035, 1036, 1037, 1038, 1039, 1040, 1041, 1042, 1043, 1044, 1045, 1046, 1047, 1048, 1049, 1050, 1051, 1052, 1053, 1054, 1055, 1056, 1057, 1058, and 1059.

The Institution Decision issued on March 29, 2016.<sup>2</sup> Paper No. 10. The Board instituted trial as to claims 1, 3-7, 9, 12-16, 18-23, 29, and 35. *Id.* Specifically, the Board instituted trial for claims 1, 3-5, 9, 12-16, 18, 19, 22, 23, 29, and 35 as unpatentable based on Chandnani and Kolawa; claims 1, 3-5, 9, 12-16, 18, 19, 22, 23, 29, and 35 based on Chandnani, Kolawa, and Walls; claims 6, 7, 20, and 21 based on Chandnani, Kolawa, and Huang; and claims 6, 7, 20, and 21 based on Chandnani, Kolawa, Walls, and Huang. *Id.* Finjan's objections are timely under 37 C.F.R. section 42.64(b)(1). Finjan serves Petitioner with these objections to provide notice that Finjan reserves the right move to exclude these

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<sup>2</sup> The Board consolidated IPR2015-02001 and IPR2016-00157.

exhibits as improper evidence.

### **I. Dr. Aviel Rubin Declaration (Ex. 1002)**

Finjan objects to the admissibility of the Rubin Declaration for at least the following reasons: Under **FRE 702**, Dr. Aviel Rubin's opinions are inadmissible because they are conclusory, do not disclose underlying facts or data in support of his opinions, and are unreliable. Additionally, Dr. Aviel Rubin is unqualified as an expert to provide technical opinions of a person skilled in the art. *See* Ex. 1022 (*Curriculum Vitae* of Dr. Aviel Rubin). As such, his opinions are inadmissible under **FRE 702**. They are also irrelevant, confusing, and of minimal probative value under **FRE 401, 402, and 403**.

### **II. Objections to Exhibits Lacking Authentication**

Finjan objects to Exhibits 1007, 1010, 1013, 1014, 1016, 1018, 1020, 1023, 1025, 1026, 1027, 1028, 1029, 1030, 1032, 1033, 1034, 1037, 1038, 1039, 1040, 1042, 1043, 1044, 1045, 1046, 1047, 1048, 1049, 1050, 1052, 1053, 1054, 1055, 1056, 1057 under **FRE 901** because these exhibits lack authentication.

### **III. Objections to Exhibits Based on Hearsay**

Finjan objects to Exhibits 1041 under **FRE 802** because certain statements in these Exhibits that are relied upon in the Petition constitute inadmissible hearsay.

#### IV. Objections to Exhibits Based on Relevance

Finjan objects to Exhibits 1023, 1024, 1025, 1026, 1027, 1028, 1029, 1030, 1031, 1032, 1033, 1034, 1035, 1036, 1038, 1039, 1041, 1042, 1043, 1044, 1045, 1046, 1047, 1048, 1049, 1050, 1051, 1052, 1053, 1054, 1055, 1056, 1057, 1058, and 1059 as irrelevant under **FRE 401–403** because Petitioner never relied on these Exhibits in the Petition.

#### V. Conclusion

Therefore, Finjan reserves its right to file motions to exclude this exhibit and evidence under 37 C.F.R. section 42.64(c).

Respectfully submitted,

Dated: April 12, 2016

/James Hannah/

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(Case No. IPR2015-02001  
Case No. IPR2016-00157)

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**CERTIFICATE OF SERVICE**

Pursuant to 37 C.F.R. § 42.6(e), the undersigned certifies that a true and correct copy of the foregoing Patent Owner's Objections to Evidence Under 37 C.F.R. § 42.64 was served on April 12, 2016, by filing this document through the Patent Review Processing System as well as delivering via electronic mail upon the following counsel of record for Petitioner:

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