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1 PAUL 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
8 Facsimile: (650) 752-1800

8 Attorneys for Plaintiff
9 FINJAN, INC.

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

13 FINJAN, INC., a Delaware Corporation,
14 Plaintiff,
15 v.
16 PALO ALTO NETWORKS, INC.,
17 Defendant.

Case No.: 14-cv-04908-EMC

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**PLAINTIFF FINJAN, INC.’S
OBJECTIONS AND RESPONSES TO
DEFENDANT PALO ALTO NETWORKS,
INC.’S FIRST SET OF
INTERROGATORIES (NOS. 1-13)**

21 Pursuant to Fed. R. Civ. P. 26 and 33, Plaintiff Finjan, Inc. (“Finjan”) responds to Defendant
22 Palo Alto Networks, Inc. (“PAN” or “Defendant”)’s First Set of Interrogatories (“Interrogatories”).
23 Finjan makes these objections and responses herein (collectively “Responses”) based solely on its
24 current knowledge, understanding, and belief as to the facts and information reasonably available to it
25 as of the date of the Responses.

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INTERROGATORY NO. 5:

For each Asserted Patent, state in detail all facts and information (including without limitation the identity of documents and persons knowledgeable) concerning any secondary considerations (also known as objective indicia) relating to the alleged nonobviousness of the claimed subject matter, including without limitation: any long-felt but unfulfilled need, unexpected results, failure of others, commercial success, acquiescence, license granted to the Asserted Patents, professional approval, lack of contemporaneous invention, prior skepticism, copying or laudatory statements by others; the nexus between each alleged indicia of nonobviousness and each Asserted Claim to which that indicia allegedly applies; and the three (3) Finjan employees Finjan believes are most knowledgeable about the factual bases supporting Finjan’s contentions.



1 **RESPONSE TO INTERROGATORY NO. 5:**

2 Finjan objects to this Interrogatory as vague and ambiguous, including the term “most
3 knowledgeable.” Finjan objects to this Interrogatory to the extent it is compound because it is
4 comprised of multiple, discrete subparts. Finjan objects to this Interrogatory to the extent it calls for a
5 legal conclusion. Finjan objects to this Interrogatory to the extent that it seeks confidential, business,
6 financial, proprietary or sensitive information or trade secrets of third parties, which is subject to pre-
7 existing protective order(s) and/or confidentiality agreements; Finjan will not produce such
8 information absent an express order to the contrary from a court of competent jurisdiction, or an
9 authorization from the third party having the interest in the information’s confidentiality. Finjan
10 objects to this Interrogatory to the extent that it seeks information beyond Finjan’s actual knowledge,
11 custody, or control. Finjan objects to this Interrogatory to the extent it seeks information protected by
12 the attorney-client privilege, the work product doctrine, or any other applicable law, privilege, doctrine
13 or immunity. Finjan objects to this Interrogatory to the extent it seeks information within Defendants’
14 possession, custody or control, or to the extent it seeks information in the public domain; Defendant
15 can ascertain such information from its own records or from other sources at least as readily as Finjan.
16 Finjan objects to this Interrogatory as vague and ambiguous. Finjan objects to this Interrogatory as
17 premature to the extent it calls for subsequent discovery in this action and/or expert testimony that will
18 be provided according to deadlines set by the Court.
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21 Subject to and without waiving the foregoing general and specific objections, Finjan responds
22 as follows:
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24 At the very least, the Patents-in-Suit are novel and non-obvious due to the industry praise, long-
25 felt need, licensing, copying by competitors, and commercial success of the technology covered by
26 these patents. For example:
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1 compete against large well-established companies. Microsoft saw the value of licensing Finjan’s
2 technology to help give them a boost and now Microsoft is one of the more dominant players with
3 Microsoft Security Essentials product. A Microsoft spokesperson stated that “Finjan has done some
4 interesting product innovation in the security space.”

5 In November 2009, Finjan licensed its patents to M86 Security. In March 2012, Finjan
6 licensed its patents to Trustwave Holdings, Inc. In July 2012, Finjan licensed its patents to Webroot
7 Inc. In November 2012, McAfee, Inc./Intel Corporation (“Intel”) took a license to Finjan’s patent
8 portfolio. In September 2014, Websense, Inc. took a license to Finjan’s patent portfolio.

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10 Copying by Competitors:

11 On June 6, 2005 Finjan filed a complaint of infringement against Secure Computing
12 Corporation (“Secure Computing”) asserting that Secure Computing infringed the ‘780 and ‘822
13 Patents and a related patent. That case proceeded to trial, where the jury found that all of the asserted
14 Finjan patents were valid in light of the asserted prior art. Secure Computing was also found to
15 infringe the asserted patents, and awarded Finjan damages on Secure Computing revenue of \$65.75
16 million. On August 18, 2009, the District Court in the Secure Computing case enhanced Finjan’s jury
17 verdict. The court based its reasoning for enhancing damages partly on a finding that “Finjan’s patents
18 were copied deliberately” and “Finjan patents represented a technology that [Secure] wished to
19 compete with and emulate in the market.” Secure Computing even named this copying in their code
20 and called it “Finjan Buster” or “Finjan Killer.” Finjan was also awarded a permanent injunction
21 against Secure Computing for infringing the asserted patents. In addition, the patented technology of
22 the Patents-in-Suit has been copied by PAN and other companies.
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