

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PALO ALTO NETWORKS, INC.,
Petitioner,

v.

FINJAN, INC.,
Patent Owner.

Case IPR2016-00159
U.S. Patent No. 8,677,494

**SUPPLEMENTAL DECLARATION OF S.H. MICHAEL KIM IN
SUPPORT OF PATENT OWNER'S RESPONSE TO PETITION**

I, S.H. Michael Kim, make the following declaration under penalty of perjury:

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

2. I provide this Declaration in connection with the above-identified *inter partes* review proceeding.

3. Attached to the Patent Owner Response as Exhibit 2012 is a true and correct copy of my Declaration in Support of Patent Owner's Response ("Declaration I").

4. I am currently the Senior Director, Intellectual Property (IP) Counsel of Finjan Holdings, Inc. I have been IP counsel since March 2015. The assignee of U.S. Patent No. 8,677,494 ("the '494 Patent") under *inter partes* review is Finjan Inc. ("Finjan"), a wholly owned-subsiidiary of Finjan Holdings, Inc. The '494 Patent issued on March 18, 2014.

5. As part of my responsibilities, and in connection with preparing Declaration I, I reviewed Finjan's business records, maintained in the ordinary course of Finjan's regular business activities, including documentation of and relating to:

(a) Finjan's research and development efforts since its founding in 1997;

(b) Finjan's entire patent portfolio including its 27 U.S. issued patents and 27 foreign issued patents;

(c) Finjan's license agreements including the licenses entered into after the issuance of the '494 Patent on March 18, 2014;

(d) Finjan's SEC filings (including those available in Exhibits 2034–2039) which include information regarding Finjan's successful licensing program. These SEC filings were made at the time that they were filed based on information from Finjan's officers, were signed and confirmed by Finjan's officers, and are regularly made and maintained in the ordinary course of Finjan's regular business activities; and

(e) Gartner Magic Quadrant Reports (including those available in Exhibits 2040 and 2041) which show competitors within the computer network security field. These documents are commonly used market reports that are generally relied upon by the public and security community. Furthermore, these documents are maintained in Finjan's records in the ordinary course of Finjan's regular business activities.

6. As part of my responsibilities, I attended the patent infringement trial for *Finjan v. Blue Coat Systems, Inc.*, 13-cv-03999-BLF (N.D. Cal.) in July 2015 and heard sworn testimony from various Finjan witnesses regarding Finjan's

history, its research and development efforts, its patent portfolio, and its licensing practices.

7. Finjan's successful licensing program with licensees includes Microsoft, M86, Trustwave, Intel/McAfee, Webroot, F-Secure, Websense, Inc. ("Websense"), Proofpoint, Inc. ("Proofpoint"), Armorize Technologies, Inc. ("Armorize") and Avast Software ("Avast").

8. As part of my responsibilities, and in connection with preparing Declaration I, I reviewed documentation, maintained in Finjan's records in the ordinary course of Finjan's regular business activities, relating to the patent infringement litigation brought by Finjan against McAfee, which was acquired by Intel during the litigation. My review included the license agreement, [REDACTED] [REDACTED] which settled the pending litigation. This license agreement was made at the time that it was executed based on information from Finjan's officers; was signed by Finjan's officers; is regularly made as part of Finjan's licensing activities; and is maintained in the ordinary course of Finjan's business. I also personally witnessed testimony concerning this license agreement in the *Finjan v. Blue Coat* trial in the Northern District of California. This testimony confirmed that the license agreement was authentic and admissible as evidence.

9. As part of my responsibilities, and in connection with preparing Declaration I, I reviewed documentation, maintained in Finjan's records in the ordinary course of Finjan's regular business activities, relating to the patent infringement litigation brought by Finjan against Webroot. My review included the license agreement, entered into by Finjan and Webroot on July 30, 2012, which settled the pending litigation. This license agreement was made at the time that it was executed based on information from Finjan's officers; was signed by Finjan's officers; is regularly made as part of Finjan's licensing activities; and is maintained in the ordinary course of Finjan's business. I also personally witnessed testimony concerning this license agreement in the *Finjan v. Blue Coat* trial in the Northern District of California. This testimony confirmed that the license agreement was authentic and admissible as evidence.

10. As part of my responsibilities, and in connection with preparing Declaration I, I reviewed documentation, maintained in Finjan's records in the ordinary course of Finjan's regular business activities, relating to the license agreement entered into by Finjan and F-Secure on April 7, 2015. I was also involved in the negotiations of the agreement between Finjan and F-Secure in 2015. This license agreement was made at the time that it was executed based on information from Finjan's officers; was signed by Finjan's officers; is regularly

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