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FINJAN, INC.

9
10 **IN THE UNITED STATES DISTRICT COURT**
11 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
12 **OAKLAND DIVISION**
13

14 FINJAN, INC., a Delaware Corporation,

15 Plaintiff,

16 v.

17 SOPHOS INC., a Massachusetts Corporation,

18 Defendant.
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Case No.: 14-cv-01197-SBA

**DECLARATION OF NENAD
MEDVIDOVIC IN SUPPORT OF
PLAINTIFF FINJAN, INC.'S OPENING
CLAIM CONSTRUCTION BRIEF**

Judge: Hon. Sandra B. Armstrong

DECLARATION OF NENAD MEDVIDOVIC IN SUPPORT OF CASE NO. 14-cv-01197-SBA
FINJAN, INC.'S OPENING CLAIM CONSTRUCTION BRIEF

1 I, Nenad Medvidović, declare:

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

4 **Qualifications**

5 2. I received a Bachelor of Science (“BS”) degree, Summa Cum Laude, from Arizona
6 State University’s Computer Science and Engineering department.

7 3. I received a Master of Science (“MS”) degree from the University of California at
8 Irvine’s Information and Computer Science department.

9 4. I received a Doctor of Philosophy (“PhD”) degree from the University of California at
10 Irvine’s Information and Computer Science department. My dissertation was entitled, “Architecture-
11 Based Specification-Time Software Evolution.”
12

13 5. I am employed by the University of Southern California (“USC”) as a faculty member
14 in the Computer Science Department, and have been since January 1999. I currently hold the title of
15 Professor with tenure. Between January 2009 and January 2013, I served as the Director of the Center
16 for Systems and Software Engineering at USC. Since July 2011, I have served as my Department’s
17 Associate Chair for PhD Affairs.
18

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

21 7. I have over twenty years of research experience that has spanned a wide range of issues
22 pertaining to large, complex, distributed software systems. This research has included security and
23 trust as significant components. As one example, my research has resulted in a new technique that
24 deploys a software system on a set of distributed computers in a manner that optimizes that system’s
25 “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**

7
8 8. I understand that the following patents are at issue in the litigation between Finjan and
9 Sophos: U.S. Patent Nos. 6,154,844 (“the ‘844 Patent”); 6,804,780 (“the ‘780 Patent”); 7,613,918 (“the
10 ‘918 Patent”); 7,613,926 (“the ‘926 Patent”); 7,757,289 (“the ‘289 Patent”); 8,141,154 (“the ‘154
11 Patent”); 8,566,580 (“the ‘580 Patent”); and 8,677,494 (“the ‘494 Patent”) (collectively “Finjan
12 Patents”). I also understand the Finjan and Sophos only have disputes regarding construction of the
13 terms in the following Finjan Patents which I have reviewed in detail: U.S. Patent Nos. 6,154,844 (“the
14 ‘844 Patent”); 7,613,918 (“the ‘918 Patent”); 7,613,926 (“the ‘926 Patent”); 8,566,580 (“the ‘580
15 Patent”); and 8,677,494 (“the ‘494 Patent”). I have also reviewed the prosecution history of the Finjan
16 Patents.
17

18 9. I understand that I am submitting this Declaration to assist the Court in determining the
19 proper construction of certain terms used in the claims in the Finjan Patents. I have reviewed the Joint
20 Claim Construction and Pre-Hearing Statement Pursuant to Patent Local Rule 4-3, which I understand
21 Finjan and Sophos jointly submitted and set forth their respective proposed claim construction and
22 support therefore. I have also reviewed the terms that I understand Finjan and Sophos selected for
23 construction.
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Construction of the Terms

10. I have reviewed Finjan’s and Sophos’s proposed constructions for the terms in the claims of the Finjan Patents. My understanding of a person of skill in the art is a person with a bachelor’s degree in computer science or related field, and either (1) two or more years of industry experience and/or (2) an advanced degree in computer science or related field.

11. I understand that Finjan and/or Sophos have disputes regarding the constructions for the claims terms listed below:

Construction of the Terms of the ‘844 Patent

i. means for receiving a Downloadable

Claim Term	Finjan’s Proposed Construction	Sophos’s Proposed Construction
means for receiving a Downloadable	Governed by 35 U.S.C. § 112(6): Function: receiving a Downloadable Structure: Downloadable file interceptor	Indefinite

12. Based on my professional experience, a person of ordinary skill in the art would understand that the element “means for receiving a Downloadable” describes an element with the function of “receiving a Downloadable,” as unambiguously stated in the claim. A person of ordinary skill in that art would easily be able to ascertain this is the function associated with this element because the claim sets forth a clear function with reasonable certainty. Specifically, the function is found after the “for” clause in the claim term.

13. I understand that in order to determine the proper function for the claim term, a person of skill in the art must look to the specification to find the structure that performs the function recited in the claim. Based on my professional experience, a person of ordinary skill in the art would

1 understand that the ‘844 Patent discloses that the function of “receiving a Downloadable” is performed
 2 by the “Downloadable file interceptor.” The ‘844 Patent discloses that “[m]ethod 700 begins with the
 3 Downloadable file interceptor 505 in step 705 receiving a Downloadable file” and “[t]he generic
 4 protection engine 500 includes a Downloadable file interceptor 505 for intercepting incoming
 5 Downloadables (i.e., Downloadable files) for inspection....” ‘844 Patent, Col. 9, ll. 21-22;Col. 7,
 6 ll.44-46. As shown from these passages, the structure for intercepting an incoming Downloadable is a
 7 Downloadable file interceptor. Thus, there is no ambiguity and a person of skill in the art would be
 8 reasonably certain that the structure disclosed in the ‘844 Patent as performing the recited function is a
 9 “Downloadable file interceptor.”
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11 14. As a person of ordinary skill in the art would be able to determine the proper function
 12 and structure of this element with a reasonable certainty when the claim is read in light of the
 13 specification and prosecution history. I disagree with Sophos’s assertion that the element is indefinite.
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15 **ii. means for generating a first Downloadable security profile that identifies
 suspicious code in the received Downloadable**

Claim Term	Finjan’s Proposed Construction	Sophos’s Proposed Construction
means for generating a first Downloadable security profile that identifies suspicious code in the received Downloadable	Governed by 35 U.S.C. § 112(6): Function: generating a first Downloadable security profile that identifies suspicious code in the received Downloadable Structure: content inspection engine	Indefinite

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 24 15. Based on my professional experience, a person of ordinary skill in the art would
 25 understand that the element “means for generating a first Downloadable security profile that identifies
 26 suspicious code in the received Downloadable” describes an element with the function of “generating a
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