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Attorneys for Plaintiff
FINJAN, INC.

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

FINJAN, INC., a Delaware Corporation,

Plaintiff,

v.

WEBSENSE, INC., a Delaware Corporation,

Defendant.

Case No.: 13-cv-04398-BLF

PLAINTIFF FINJAN, INC.'S OPENING CLAIM CONSTRUCTION BRIEF

Date: November 21, 2014
Time: 9:00 a.m.
Dept.: Courtroom 3, 5th Floor
Judge: Hon. Beth Labson Freeman

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I. INTRODUCTION

Through over a decade of research, Finjan developed a suite of technologies that protect against a variety of threats from the Internet. Finjan's Patents are a reflection of its extensive development of innovative technology. While a number of companies have recognized Finjan's innovations and licensed its intellectual property, Websense has refused to do so, even though its products employ Finjan's patented technology. As a result, Finjan filed this action based on Websense's infringement of five of Finjan's Patents covering these security technologies.

The claims of Finjan's Patents are generally able to stand by themselves without reference to the intrinsic record because they are written in language that is commonly understood by those of skill in the art and define the terms in the claims themselves. As a result, most of the claim terms of Finjan's Patents do not require construction. Finjan's positions regarding claim construction reflect this fundamental nature of Finjan's patents.

Websense's definitions violate a variety of claim construction tenants. Mostly notably, Websense seeks to change well-understood claim terms even though no explicit disavowal exists in the intrinsic record. Without a clear indication in the intrinsic record to limit a claim term, a well-understood term should be afforded its plain and ordinary meaning. This principle alone dictates that the terms Websense proposed for construction should not be construed.

To eliminate any doubt regarding the propriety of Finjan's positions, Finjan offers uncontested expert testimony supporting its constructions. During the claim construction discovery process, Websense's expert offered no testimony rebutting Finjan's claim construction positions. Websense's expert only testified that certain terms were indefinite, but in the very same breath, admitted that all of the terms had well-understood meanings, and leaving Finjan's expert, Dr. Medvidovic's opinions unrebutted.

II. STATEMENT OF FACTS

A. Background of the Technology

In the modern era of computing, computers are constantly under attack from computer viruses propagating on the Internet. Viruses have proven to be one of the most difficult, not to mention costly,

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