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Filed on behalf of: Blue Coat Systems, Inc.

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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BLUE COAT SYSTEMS, INC.,  
Petitioner,

v.

FINJAN, INC.,  
Patent Owner.

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Patent No. 6,804,780

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**MOTION FOR JOINDER**

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## I. Introduction

Blue Coat Systems, Inc. (“Blue Coat”) submits, concurrently with this motion, a petition for *inter partes* review (the “Petition”) of claims 1-18 of U.S. Patent No. 6,804,780 (“the ’780 patent”), which is assigned to Finjan, Inc. (“Patent Owner”). Blue Coat respectfully requests that this proceeding be joined with a pending *inter partes* review initiated by Palo Alto Networks, Inc. (“Palo Alto Networks”), *Palo Alto Networks, Inc. v. Finjan, Inc.*, IPR2016-00165 (“Palo Alto Networks IPR”).

Blue Coat’s request for joinder is timely because the Board has not yet issued an institution decision in the Palo Alto Networks IPR. The Petition is also narrowly tailored to the grounds of unpatentability that are subject of the Palo Alto Networks IPR, and in fact is practically a copy of Palo Alto Networks’ petition with respect to the proposed grounds, including the same analysis of the prior art and expert testimony. In addition, joinder is appropriate because it will efficiently resolve the validity of the challenged claims of the ’780 patent in a single proceeding, without prejudicing the parties to the Palo Alto Networks IPR.

Absent termination of Palo Alto Networks as a party to the proceeding, Blue Coat anticipates participating in the proceeding in a limited capacity. To the extent that Blue Coat does participate, Blue Coat will coordinate with Palo Alto Networks to consolidate any filings, manage questioning at depositions, manage

presentations at the hearing, ensure that briefing and discovery occur within the time normally allotted, and avoid redundancies.

Blue Coat has conferred with counsel for Palo Alto Networks regarding the subject of this motion. Palo Alto Networks has indicated that it does not oppose joinder.

## **II. Background**

Patent Owner has asserted the '780 patent against a number of defendants, including Blue Coat. In 2013, Patent Owner filed a complaint asserting the '780 patent against Blue Coat. *See* Case No. 13-cv-3999 (N.D. Cal. filed Aug. 28, 2013).

On November 6, 2015, Palo Alto Networks filed a petition for *inter partes* review challenging claims 1-18 of the '780 patent, which was assigned Case No. IPR2016-00165. The Board has not yet issued an institution decision in IPR2016-00165. The Petition raises only the grounds of unpatentability that are the subject of the Palo Alto Networks IPR, and in fact is a copy of Palo Alto Networks' petition with respect to the proposed grounds, including the same prior art analysis and expert testimony. *See* Pet.

### **III. Argument**

#### **A. Legal Standard**

The Board has authority to join as a party any person who properly files a petition for *inter partes* review to an instituted *inter partes* review. 35 U.S.C. § 315(c). A motion for joinder must be filed within one month of institution of any *inter partes* review for which joinder is requested. 37 C.F.R. § 42.122(b). In deciding whether to grant a motion for joinder, the Board considers several factors including: (1) the reasons why joinder is appropriate; (2) whether the party to be joined has presented any new grounds of unpatentability; (3) what impact, if any, joinder would have on the trial schedule for the existing review; and (4) how briefing and discovery may be simplified. *See, e.g., Hyundai Motor Co. v. Am. Vehicular Sciences LLC*, IPR2014-01543, Paper No. 11 at 3 (Oct. 24, 2014); *Macronix Int'l Co. v. Spansion*, IPR2014-00898, Paper 15 at 4 (Aug. 13, 2014) (quoting *Kyocera Corporation v. Softview LLC*, IPR2013-00004, Paper 15 at 4 (April 24, 2013)).

#### **B. Blue Coat's Motion for Joinder Is Timely**

Joinder may be requested no later than one month after the institution date of an *inter partes* review for which joinder is requested. 37 C.F.R. § 42.122. Here, because the Board has not yet issued an institution decision in the Palo Alto Networks IPR, this motion for joinder is timely.

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