UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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FIREEYE, INC.,
Petitioner,

v.

FINJAN, INC.,
Patent Owner.

_____

Case IPR2017-00157
Patent 8,225,408

_____

**PATENT OWNER'S PRELIMINARY RESPONSE
UNDER 37 C.F.R. § 42.107**

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EXHIBIT LIST

	Description
Exhibit-2001	Proof of Service of Summons, *Finjan, Inc., v. FireEye, Inc.*, Case No. 13-cv-03133 (N.D. Cal.)

I.   INTRODUCTION

On October 28, 2016, FireEye, Inc., ("Petitioner" or "FireEye") submitted a

Petition to institute an *inter partes* review ("IPR") challenging claims 1–2, 8–9, 11,

23–28, and 29–34 of U.S. Patent No. 8,225,408 (Ex. 1001, "the '408 Patent"). The

instant Petition is unquestionably time-barred under 35 U.S.C. § 315(b) and 37

C.F.R. §42.101(b). In an effort to evade the statutory timing restriction, FireEye

seeks to join a rejected *inter partes* review brought by Blue Coat Systems, LLC,

("Blue Coat"). *See* Motion for Joinder, *FireEye, Inc., v. Finjan, Inc.,* Paper No. 3

("Joinder Motion") (requesting to join *Blue Coat Systems, LLC, v. Finjan, Inc.,*

Case No. IPR2016-01441 ("the '1441 Case"); *see also* Decision Denying

Institution of *Inter Partes* Review, *Blue Coat Systems, LLC, v. Finjan, Inc.,* Case

No. IPR2016-01441, Paper No. 14 (P.T.A.B. Jan. 23, 2017) (denying institution of

inter partes review of the '1441 Case).

Finjan, Inc. ("Patent Owner" or "Finjan") requests that the Board deny the

Petition at least because 35 U.S.C. § 315(b) and 37 C.F.R. § 42.101(b) prohibit

Petitioner's time-barred Petition because the Board already denied institution of

inter partes review of the '1441 Case, which is the very case that Petitioner seeks

to join. Because "a request for joinder is appropriate only if a decision granting

institution has been entered in the *inter partes* review for which joinder is

requested," and the *inter partes* review that Petitioner's motion is requested for has

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