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Attorneys for Plaintiff
FINJAN, INC.

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

FINJAN, INC., a Delaware Corporation,

Plaintiff,

v.

ZSCALER, INC., a Delaware Corporation,

Defendant.

Case No.:

COMPLAINT FOR PATENT INFRINGEMENT

DEMAND FOR JURY TRIAL

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Finjan, Inc. ("Finjan") files this Complaint for Patent Infringement and Demand for Jury Trial against Zscaler, Inc. ("Defendant" or "Zscaler") and alleges as follows:

THE PARTIES

1. Finjan is a Delaware Corporation with its principal place of business at 2000 University Avenue, Suite 600, E. Palo Alto, California 94303.

2. Defendant is a Delaware Corporation with its headquarters and principal place of business at 110 Rose Orchard Way, San Jose, California 95134. Defendant may be served through its agent for service of process, Corporate Service Center of California, at 2030 Main Street 13th Floor, Irvine, California 92614.

JURISDICTION AND VENUE

3. This action arises under the Patent Act, 35 U.S.C. § 101 *et seq*. This Court has original jurisdiction over this controversy pursuant to 28 U.S.C. §§ 1331 and 1338.

4. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b) and (c) and/or 1400(b).

5. This Court has personal jurisdiction over Defendant. Upon information and belief, Defendant is headquartered and has its principal place of business in this District (San Jose, California). Defendant also regularly and continuously does business in this District and has infringed or induced infringement, and continues to do so, in this District. In addition, this Court has personal jurisdiction over Defendant because minimum contacts have been established with this forum and the exercise of jurisdiction would not offend traditional notions of fair play and substantial justice.

INTRADISTRICT ASSIGNMENT

6. Pursuant to Local Rule 3-2(c), Intellectual Property Actions are assigned on a district-wide basis.

FINJAN'S INNOVATIONS

7. Finjan was founded in 1997 as a wholly-owned subsidiary of Finjan Software Ltd., an Israeli corporation. In 1998, Finjan moved its headquarters to San Jose, California. Finjan was a

pioneer in developing proactive security technologies capable of detecting previously unknown and emerging online security threats, recognized today under the umbrella term "malware." These technologies protect networks and endpoints by identifying suspicious patterns and behaviors of content delivered over the Internet. Finjan has been awarded, and continues to prosecute, numerous patents covering innovations in the United States and around the world resulting directly from Finjan's more than decades-long research and development efforts, supported by a dozen inventors and over $65 million in R&D investments.

8. Finjan built and sold software, including application program interfaces (APIs) and appliances for network security, using these patented technologies. These products and related customers continue to be supported by Finjan's licensing partners. At its height, Finjan employed nearly 150 employees around the world building and selling security products and operating the Malicious Code Research Center, through which it frequently published research regarding network security and current threats on the Internet. Finjan's pioneering approach to online security drew equity investments from two major software and technology companies, the first in 2005 followed by the second in 2006. Finjan generated millions of dollars in product sales and related services and support revenues through 2009, when it spun off certain hardware and technology assets in a merger. Pursuant to this merger, Finjan was bound to a non-compete and confidentiality agreement, under which it could not make or sell a competing product or disclose the existence of the non-compete clause. Finjan became a publicly traded company in June 2013, capitalized with $30 million. After Finjan's obligations under the non-compete and confidentiality agreement expired in March 2015, Finjan re-entered the development and production sector of secure mobile products for the consumer market.

FINJAN'S ASSERTED PATENTS

9. On October 12, 2004, U.S. Patent No. 6,804,780 ("the '780 Patent"), titled SYSTEM AND METHOD FOR PROTECTING A COMPUTER AND A NETWORK FROM HOSTILE DOWNLOADABLES, was issued to Shlomo Touboul. A true and correct copy of the '780 Patent is attached to this Complaint as Exhibit 1 and is incorporated by reference herein.

10. All rights, title, and interest in the '780 Patent have been assigned to Finjan, who is the sole owner of the '780 Patent. Finjan has been the sole owner of the '780 Patent since its issuance.

11. The '780 Patent is generally directed toward methods and systems for generating a Downloadable ID. By generating an identification for each examined Downloadable, the system may allow for the Downloadable to be recognized without reevaluation. Such recognition increases efficiency while also saving valuable resources, such as memory and computing power.

12. On January 12, 2010, U.S. Patent No. 7,647,633 ("the '633 Patent"), titled MALICIOUS MOBILE CODE RUNTIME MONITORING SYSTEM AND METHODS, was issued to Yigal Mordechai Edery, Nimrod Itzhak Vered, David R. Kroll, and Shlomo Touboul. A true and correct copy of the '633 Patent is attached to this Complaint as Exhibit 2 and is incorporated by reference herein.

13. All rights, title, and interest in the '633 Patent have been assigned to Finjan, who is the sole owner of the '633 Patent. Finjan has been the sole owner of the '633 Patent since its issuance.

14. The '633 Patent is generally directed toward computer networks and, more particularly, provides a system that protects devices connected to the Internet from undesirable operations from web-based content. One of the ways this is accomplished is by determining whether any part of such web-based content can be executed and then trapping such content and neutralizing possible harmful effects using mobile protection code.

15. On March 18, 2014, U.S. Patent No. 8,677,494 ("the '494 Patent"), titled MALICIOUS MOBILE CODE RUNTIME MONITORING SYSTEM AND METHODS, was issued to Yigal Mordechai Edery, Nimrod Itzhak Vered, David R. Kroll, and Shlomo Touboul. A true and correct copy of the '494 Patent is attached to this Complaint as Exhibit 3 and is incorporated by reference herein.

16. All rights, title, and interest in the '494 Patent have been assigned to Finjan, who is the sole owner of the '494 Patent. Finjan has been the sole owner of the '494 Patent since its issuance.

17. The '494 Patent is generally directed toward a method and system for deriving security profiles and storing the security profiles. One of the ways this is accomplished is by deriving a

security profile for a downloadable, which includes a list of suspicious computer operations, and storing the security profile in a database.

18. On July 5, 2011, U.S. Patent No. 7,975,305 ("the '305 Patent"), titled METHOD AND SYSTEM FOR ADAPTIVE RULE-BASED CONENT SCANNERS FOR DESKTOP COMPUTERS, was issued to Moshe Rubin, Moshe Matitya, Artem Melnick, Shlomo Touboul, Alexander Yermakov, and Amit Shaked. A true and correct copy of the '305 Patent is attached to this Complaint as Exhibit 4 and is incorporated by reference herein.

19. All rights, title, and interest in the '305 Patent have been assigned to Finjan, who is the sole owner of the '305 Patent. Finjan has been the sole owner of the '305 Patent since its issuance.

20. The '305 Patent is generally directed toward network security and, in particular, rule based scanning of web-based content for exploits. One of the ways this is accomplished is by using parser and analyzer rules to describe computer exploits as patterns of types of tokens. Additionally, the system provides a way to keep these rules updated.

21. The '780 Patent, the '633 Patent, the '494 Patent, and the '305 Patent, as described in paragraphs 9–20 above, are collectively referred to as the "Asserted Patents" herein.

FINJAN'S NOTICE OF INFRINGEMENT TO DEFENDANT

22. Finjan and Defendant's patent discussions date back to May 2016. Finjan contacted Defendant on or about May 26, 2016, regarding a potential license to Finjan's patents.

23. On or about May 26, 2016, Finjan provided Defendant with an exemplary claim chart detailing how Defendant's products relate to '305 Patent, as well as identifying Defendant's products that infringe the '494 Patent.

24. Additionally, based on information and belief, Defendant has studied and reviewed Finjan's patents, including providing an expert declaration regarding the meaning of Finjan's patents. In particular, in IPR2018-00136, Zscaler cites, relies, and provided an expert declaration regarding the scope of U.S. Patent No. 6,092,194 ("the '194 Patent"). Finjan has been the sole owner of the '194 Patent since its issuance. The '194 Patent is related to the Asserted Patents. For example, the '194 Patent is the parent patent of the '780 Patent and contains the same identical specification. The

other Asserted Patents are related to the '194 Patent and incorporate by reference the specification of the '194 Patent. Accordingly, Defendant has had knowledge of the Accused Patents.

25. Despite Finjan's earnest and consistent efforts since May 2016, Defendant has refused to take a license to Finjan's patents. At no time has Defendant provided any reasonable explanation—legal or otherwise—as to how any of the Accused Products do not infringe any of the Asserted Patents.

Zscaler

26. Defendant makes, uses, sells, offers for sale, and/or imports into the United States and this District products and services that utilize the Zscaler's Internet Access Bundles (including Professional, Business, and Transformation), Private Access Bundle (including Professional Business, and Enterprise), Zscaler Enforcement Node ("ZEN"), Secure Web Gateway, Cloud Firewall, Cloud Sandbox, and Cloud Architecture products, services, and technologies. *See* https://www.zscaler.com/resources/solution-briefs/zscaler-internet-access.pdf, https://www.zscaler.com/products/zscaler-private-access, https://help.zscaler.com/zia/about-zscaler-cloud-architecture, https://www.zscaler.com/resources/solution-briefs/swg-web-security.pdf, https://www.zscaler.com/resources/solution-briefs/next-generation-cloud-firewall.pdf, https://www.zscaler.com/resources/solution-briefs/zscaler-cloud-sandbox.pdf, https://www.zscaler.com/products/cloud-architecture, attached hereto as Exhibits 5–11.

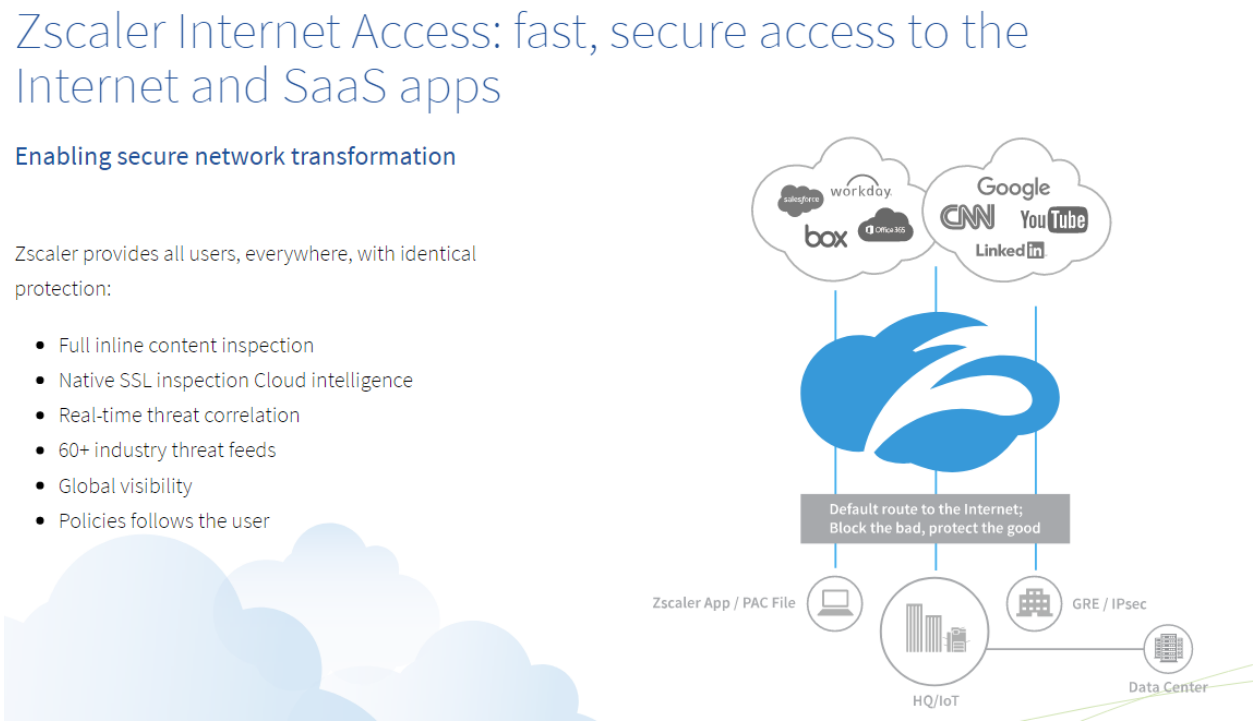
Zscaler Internet Access

27. Defendant's Internet Access Bundles (sometimes referred as Zscaler Web Security Suite) provide access to the Zscaler's Cloud Security Platform and Services, including Data Centers (which acts as a Secure Web Gateway/proxy servers), Standard and Advanced Sandboxes (for static and dynamic analysis to create security profiles and store them in databases), and Advanced Threat Protection (also for static and dynamic analysis to create security profiles and store them in databases). This is shown in Zscaler document shown below.

ZSCALER INTERNET ACCESS SERVICE	PROFESSIONAL	BUSINESS	TRANSFORMATION
CLOUD SECURITY PLATFORM			
Data Centers Global access, high availability, with latency SLAs	✓	✓	✓
Traffic Forwarding GRE tunnel, IPsec, proxy chaining, PAC file, or Mobile Zscaler App	✓	✓	✓
Authentication SAML, secure LDAP, Kerberos, hosted	✓	✓	✓
Real-Time Cloud Security Updates Receive full cloud threat sharing (cloud effect), daily security updates (over 120,000/day) and 40+ security feeds	✓	✓	✓
Real-Time Reporting and Logging Report on web transactions anywhere in seconds. Select geography of choice for all log storage (US or EU).	✓	✓	✓
SSL Inspection Full inline threat inspection of all SSL traffic with SLA. Granular policy control for content exclusion	Add-on	✓	✓
Nanolog Streaming Service Transmit logs from all users and locations to an on-premise SIEM in real time	Add-on	✓	✓
CLOUD SECURITY SERVICES			
URL and Content Filtering Granular policy by user, group, location, time, and quota; dynamic content classification for unknown URLs and Safe Search	✓	✓	✓
File Type Control True file type control by user, location, and destination	✓	✓	✓
Inline Antivirus & Antispyware Signature based antimalware and full inbound/outbound file inspection	✓	✓	✓
Reputation-Based Threat Protection Stop known botnets, command-and-control communications, and phishing	✓	✓	✓
Standard Cloud Firewall Granular outbound rules by IP address, port, and protocol (5-tuple rules)	✓	✓	✓
Advanced Cloud Firewall Full outbound next-gen cloud firewall with application and user awareness and location control; full logging and reporting	Add-on	Add-on	✓
Bandwidth Control Ensure business apps like Office 365 are prioritized over recreational traffic	Add-on	✓	✓
Standard Cloud Sandbox Zero-day protection for .exe and .dll files from unknown and suspicious sites	✓	✓	✓
Advanced Cloud Sandbox Zero-day protection for all file types from all sites; ability to hold file delivery until confirmed sandbox clean; advanced reporting	Add-on	Add-on	✓
Advanced Threat Protection PageRisk and content analysis of malware, callbacks, cross-site scripting, cookie stealing, and anonymizers	Add-on	✓	✓
Cloud Application Visibility & Control Discover, monitor, and control access to web applications	Add-on	✓	✓
Mobile Application Reporting & Control			

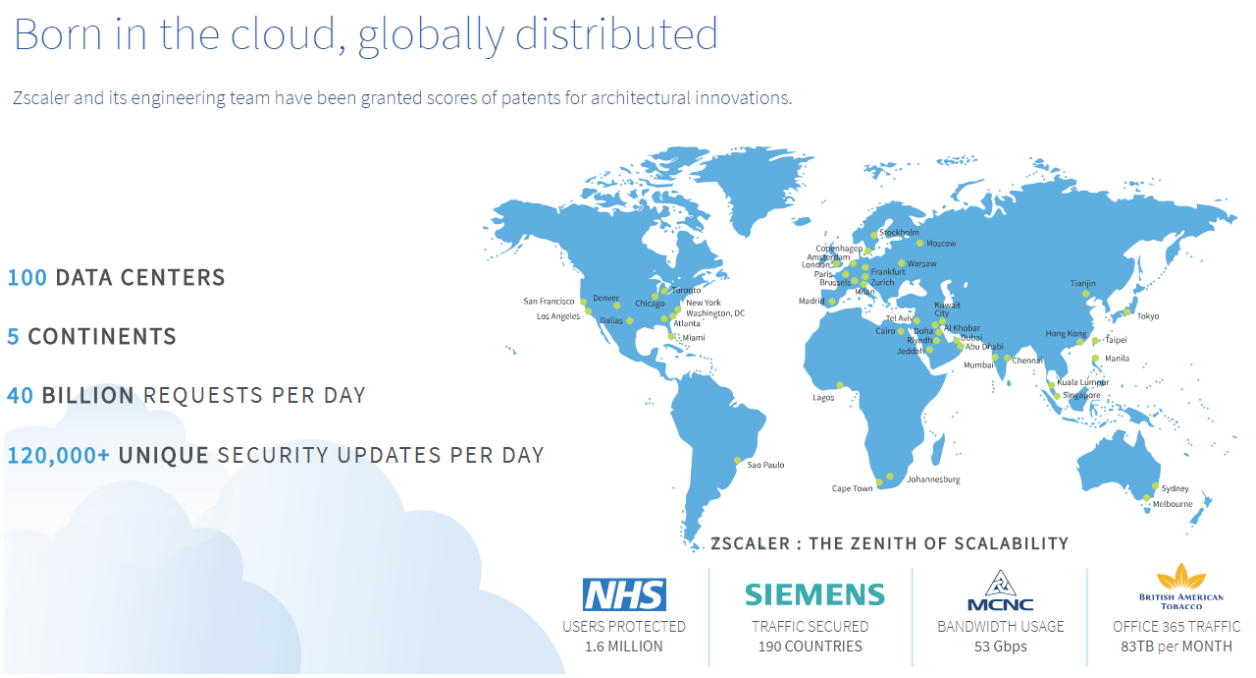
Ex. 5 at 5 (available at https://www.zscaler.com/resources/solution-briefs/zscaler-internet-access.pdf).

28. As shown below, Zscaler's Internet Access/ Cloud Security Services provides content inspection inline.



See https://www.zscaler.com/resources/ebooks/zscaler-cloud-security-platform.

29. As shown below, Zscaler's Data Centers (*i.e.*, Secure Web Gateways) are located in the U.S.



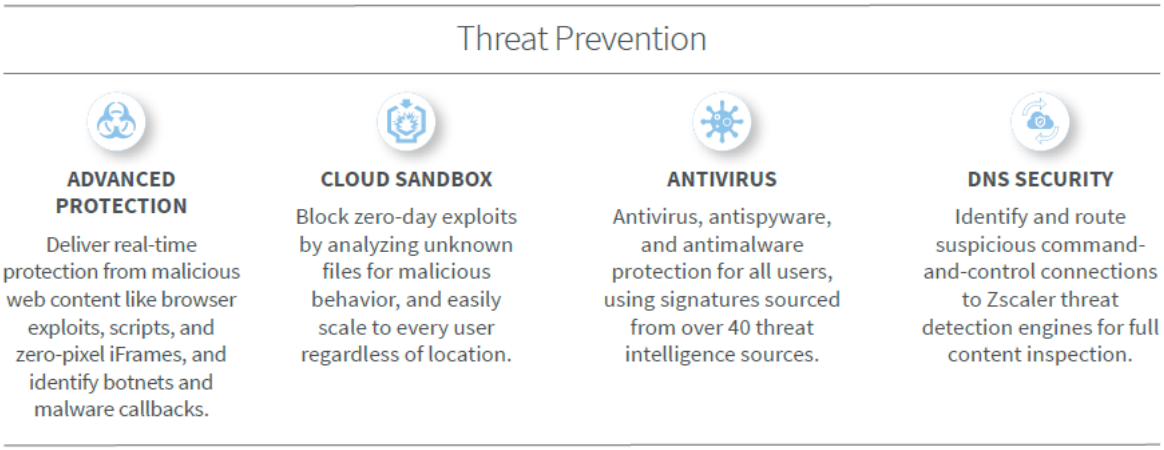
See https://www.zscaler.com/resources/ebooks/zscaler-cloud-security-platform.

30. Zscaler's Data Centers are also known as Zscaler Enforcement Nodes ("ZENs") and provide inline security gateways that inspect all Internet for malware as shown below.

> **Zscaler Enforcement Nodes**
>
> Zscaler Enforcement Nodes (ZENs) are full-featured, inline Internet security gateways that inspect all Internet traffic bi-directionally for malware, and enforce security and compliance policies. An organization can forward its traffic to any ZEN in the world or use the advanced geo-IP resolution capability of Zscaler to direct its users' traffic to the nearest ZEN. When the user moves to a different location, the policy follows the user, with the ZEN downloading the appropriate policy. Each ZEN can handle hundreds of thousands of concurrent users with millions of concurrent sessions. With the exception of sandboxing, all inspection engines run within the ZEN. Customer traffic is not passed to any other component within the Zscaler infrastructure. The TCP stack on the ZEN runs in user mode, and is specially crafted to ensure multitenancy and data security. ZENs never store any data to disk. Packet data is held in memory for inspection and then, based on policy, is either forwarded or dropped. Log data generated for every transaction is compressed, tokenized, and exported over secure TLS connections to Log Routers that direct the logs to the Nanolog cluster, hosted in the appropriate geographical region, for each organization. ZENs are always deployed in active-active load balancing mode all over the world, and the CA monitors the health of ZENs to ensure availability.

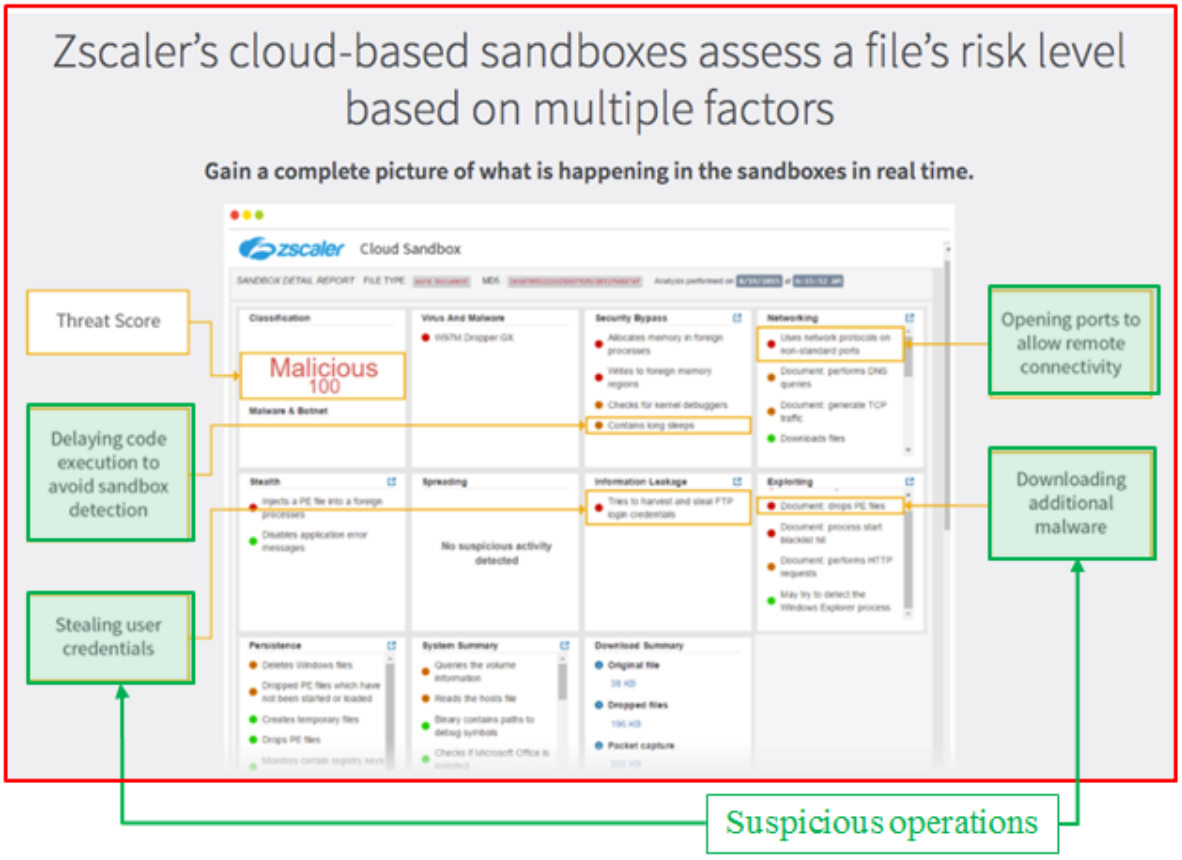
Ex. 7 at 1 (available at https://help.zscaler.com/zia/about-zscaler-cloud-architecture).

31. Zscaler sells access as subscriptions to customers to its Internet Access/Cloud Security Services under different levels of services (*e.g.*, Professional, Business, and Transformation) and as Add-on services. As shown below, Zscaler's Cloud Sandbox and Advanced Threat Protection perform dynamic and static analysis of content to prevent zero-day exploits.

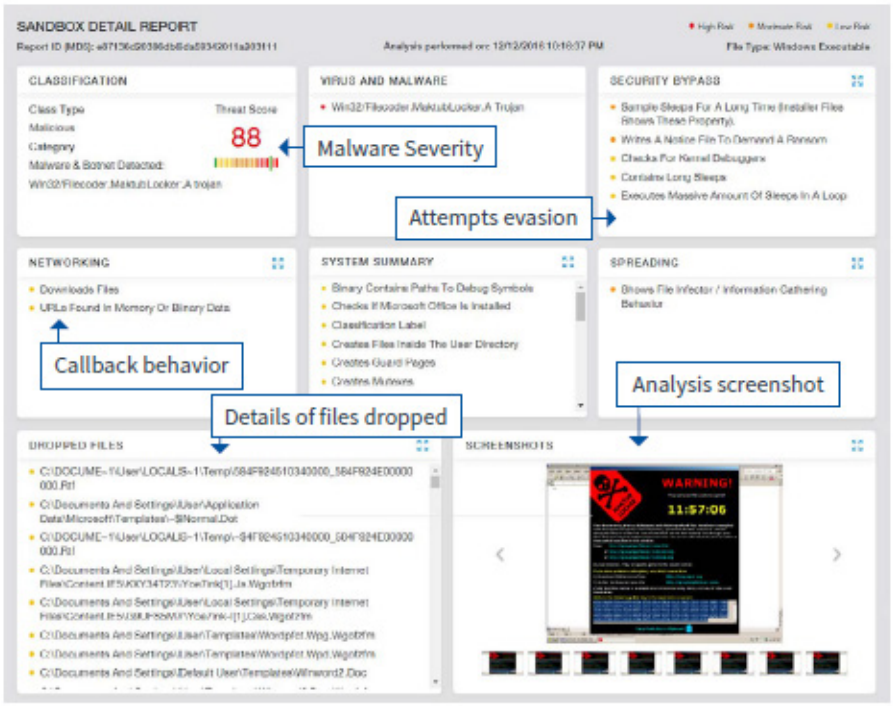


Ex. 5 at 3 (available at https://www.zscaler.com/resources/solution-briefs/zscaler-internet-access.pdf).

32. As shown below, Zscaler's Cloud Sandbox derives security profile data identifying suspicious operations.



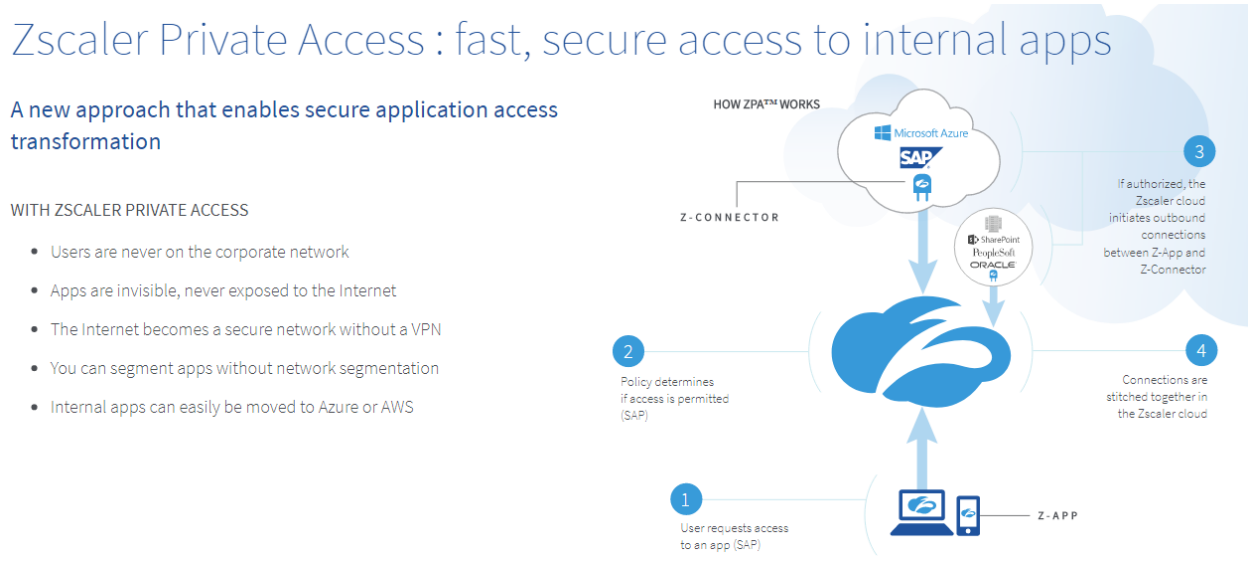
See https://www.zscaler.com/resources/ebooks/zscaler-cloud-sandbox (emphasis added).



Ex. 10 at 3 (available at https://www.zscaler.com/resources/solution-briefs/zscaler-cloud-sandbox.pdf).

Zscaler Private Access

33. Defendant's Private Access is also a cloud-based service that is similar to the Zscaler Internet Access/ Cloud Security Services described above. As shown below, the Zscaler Private Access provides access to Zscaler's technologies.



See https://www.zscaler.com/resources/ebooks/zscaler-cloud-security-platform.

Zscaler Platform

34. Defendant's Platform (also known as Cloud Architecture) is also a cloud-based service that is similar to the Zscaler Internet Access/ Cloud Security Services described above. As shown below, the Zscaler Platform services also integrates to Zscaler's Cloud Sandbox and Advanced Protection.

See https://www.zscaler.com/resources/ebooks/zscaler-cloud-security-platform.

ZSCALER'S INFRINGEMENT OF FINJAN'S PATENTS

35. Defendant has been and is now infringing, and will continue to infringe, the '780 Patent, the '633 Patent, the '494 Patent, and the '305 Patent (collectively, the "Asserted Patents") in this Judicial District and elsewhere in the United States by, among other things, making, using, importing, selling, and/or offering for sale the Zscaler's Internet Access Bundles (including Professional, Business, and Transformation), Private Access Bundle (including Professional Business, and Enterprise), Zscaler Enforcement Node ("ZEN"), Secure Web Gateway, Cloud Firewall, Cloud Sandbox, and Cloud Architecture products and services ("Accused Products").

36. In addition to directly infringing the Asserted Patents pursuant to 35 U.S.C. § 271(a), either literally or under the doctrine of equivalents, or both, Defendant indirectly infringes all the Asserted Patents by instructing, directing, and/or requiring others, including its customers, purchasers, users, and developers, to perform all or some of the steps of the method claims, either literally or under the doctrine of equivalents, or both, of the Asserted Patents.

COUNT I

(Direct Infringement of the '780 Patent pursuant to 35 U.S.C. § 271(a))

37. Finjan repeats, realleges, and incorporates by reference, as if fully set forth herein, the allegations of the preceding paragraphs, as set forth above.

38. Defendant has infringed Claims 1-18 of the '780 Patent in violation of 35 U.S.C. § 271(a).

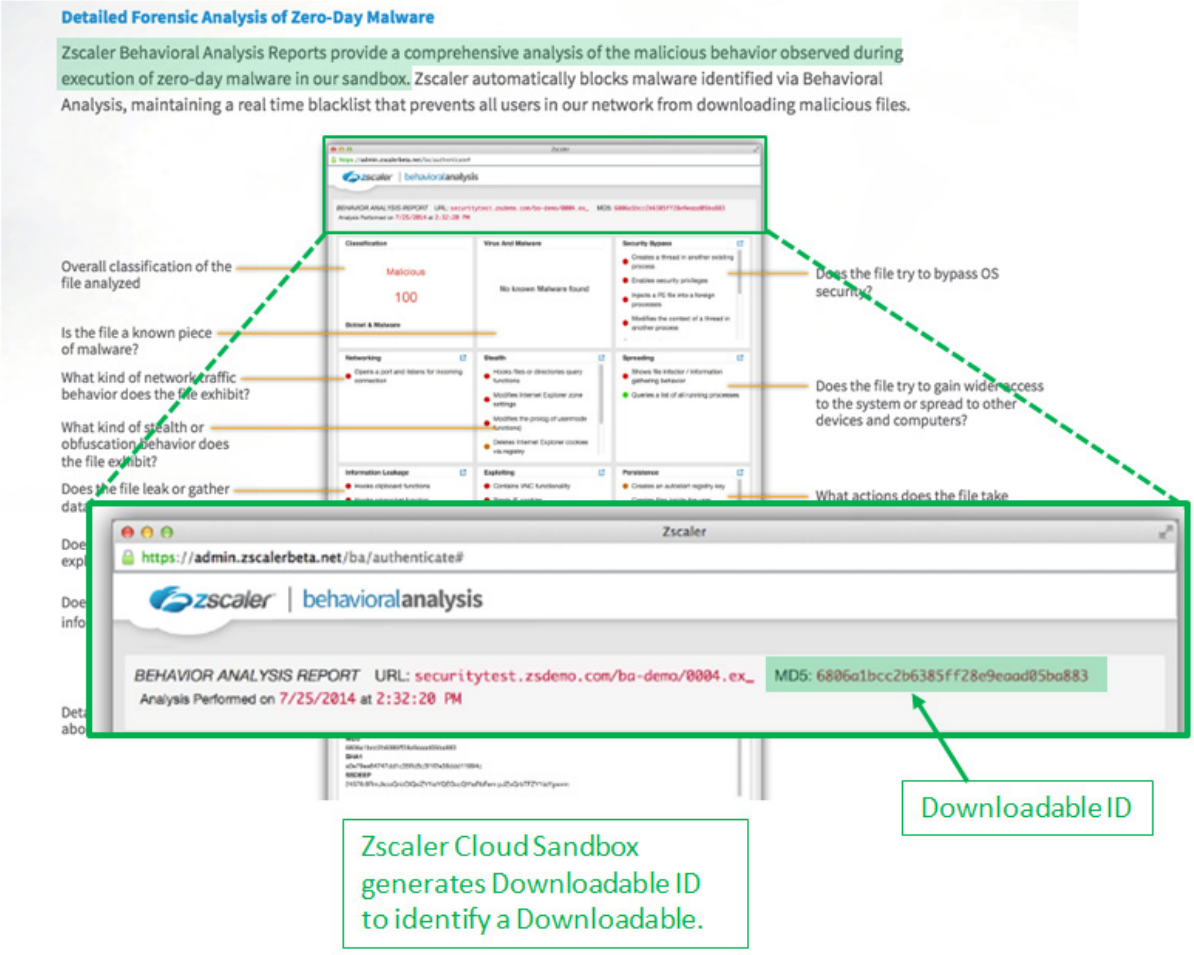
39. Defendant's infringement is based upon literal infringement or infringement under the doctrine of equivalents, or both.

40. Defendant's acts of making, using, importing, selling, and/or offering for sale infringing products and services have been without the permission, consent, authorization, or license of Finjan.

41. Defendant's infringement includes, but is not limited to, the manufacture, use, sale, importation and/or offer for sale of Defendant's products and services, including its Internet Access

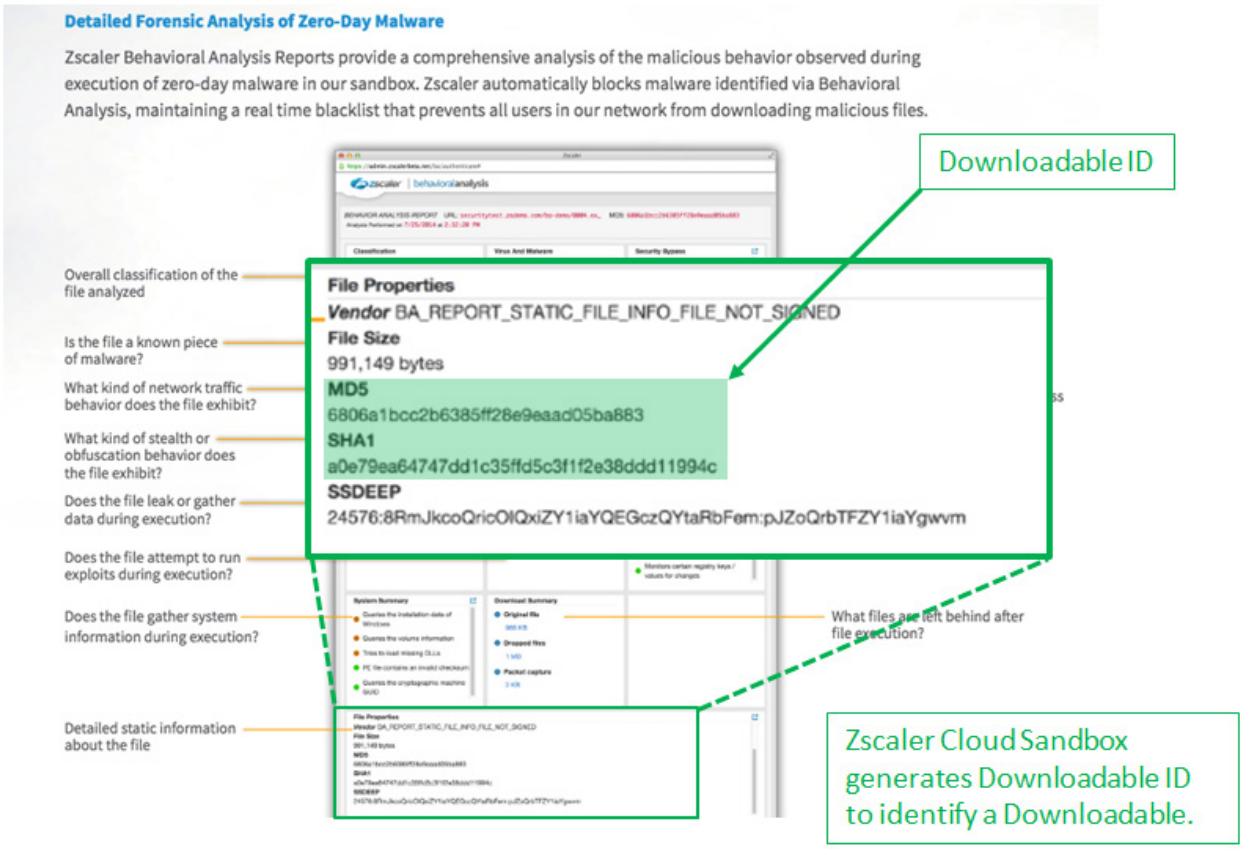
Bundles (including Professional, Business, and Transformation), Private Access Bundle (including Professional Business, and Enterprise), ZEN, Secure Web Gateway, Cloud Firewall, Cloud Sandbox, and Cloud Architecture products and services (collectively, the "'780 Accused Products").

42. The '780 Accused Products embody the patented invention of the '780 Patent and infringe the '780 Patent because they practice a method of obtaining a downloadable that includes one or more references to software components required to be executed by the downloadable, fetching at least one software component required to be executed by the downloadable, and performing a hashing function on the downloadable and the fetched software components to generate a Downloadable ID. For example, as shown below, the '780 Accused Products provide gateway security to end users, where they receive downloadables that include one or more references to executable software components, including .exe files, .pdf files, and other downloadables that might exhibit malicious behavior. The '780 Accused Products will also fetch at least one software component required to be executed by the downloadable.

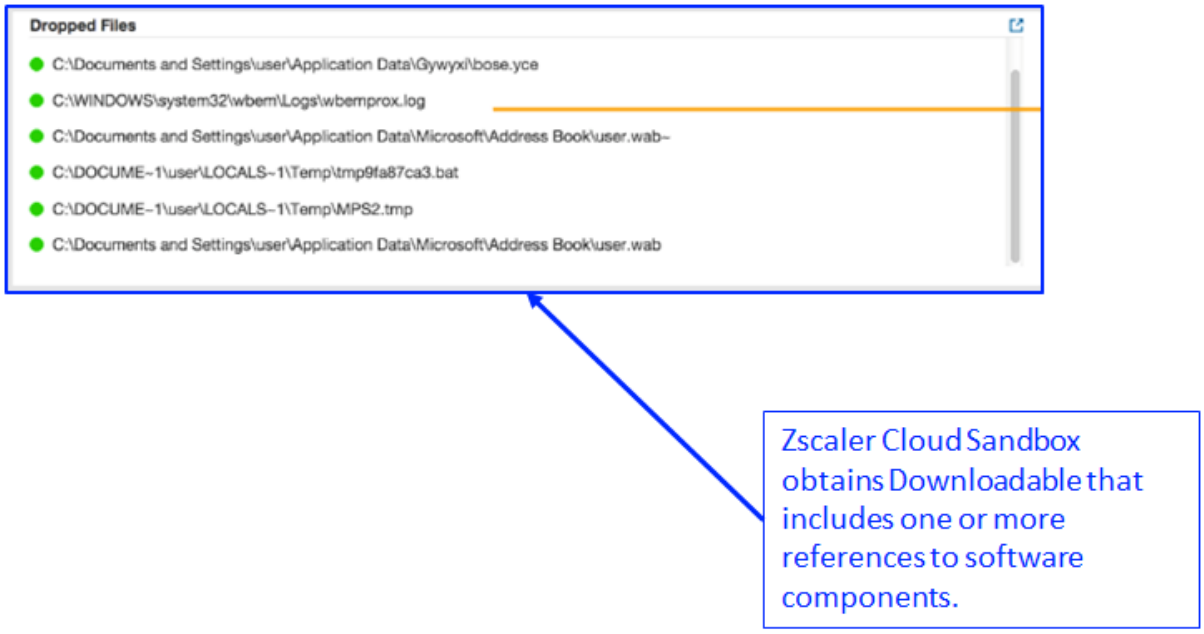


Ex. 12 at 5 (zscaler-apt-datasheet.pdf) (emphasis added).

43. The '780 Accused Products perform a hashing function (such as MD-5, SHA1, or SHA256) on the downloadable to generate a downloadable ID, as shown above and below. The '780 Accused Products hash files and components that are referenced by the downloadable as part of creating a downloadable ID, such as dropped files.

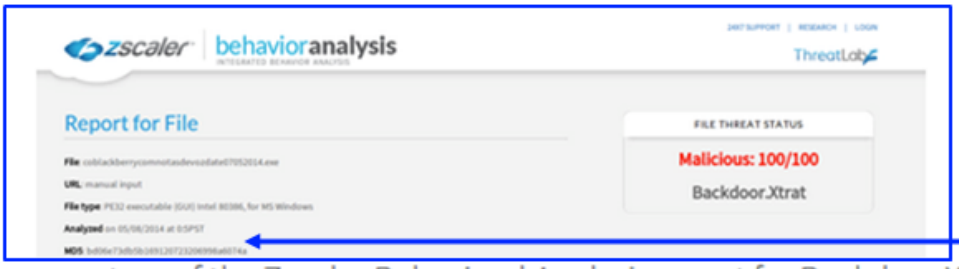


Ex. 12 at 5 (zscaler-apt-datasheet.pdf) (emphasis added).



Ex. 12 at 5 (zscaler-apt-datasheet.pdf) (emphasis added).

Zscaler behavioral analysis report:



Screen capture of the Zscaler Behavioral Analysis report for Backdoor.Xtrat

Typical behavior of this backdoor:

- Injects itself into *svchost.exe*, *exploere.exe* and *iexplore.exe*
- Drops PE files
- Performs network activity to accept commands from a remote server and sends data to the remote server

Dropped file details:

The backdoor drops the following two EXE files on victim's machine. Both of the EXE files are same, but are dropped with different names.

- vbc.exe/wintegfire.exe
  - md5 : 6fb9ce258a2420d898b6d0fa4d73bb8f
  - VT Report : 6/52 (Also very less detection)

Network Activity:

The backdoor downloads content from 'analaloca.chickenkiller.com' over port 3460.

- URL: *hxxp://analaloca[.]chickenkiller[.]com:3460/123456.functions*
- IP: 181[.]135[.]149[.]40
- Zulu report: 100/100

Zscaler fetches at least one software component.

Ex. 13 at 2–3 (available at https://www.zscaler.com/blogs/research/backdoor-xtrat-continues-evade-detection) (emphasis added).

44. Defendant's infringement of the '780 Patent has injured Finjan in an amount to be proven at trial.

45. Defendant has been long-aware of Finjan's patents, including the '780 Patent, and has acted recklessly and egregiously with conduct that is willful, wanton, malicious, bad-faith, deliberate, wrongful, and flagrant by its continued infringing activity despite this possessing specific knowledge of the accused infringement. On or about May 26, 2016, Finjan informed Defendant of its patent portfolio, including Defendant's infringement thereof. Defendant also has direct knowledge of the '194 Patent, which shares the same specification and is related to the '780 Patent.

46. On information and belief, despite its knowledge of the '780 Patent, Defendant has made no effort to design its products or services around the '780 Patent in order to avoid infringement. Instead, on information and belief, Defendant incorporated infringing technology into additional products, such as those identified in this Complaint. All of these actions demonstrate Defendant's blatant and egregious disregard for Finjan's patent rights.

47. Despite its knowledge of Finjan's patent portfolio and Asserted Patents, being provided a representative claim chart of Finjan patents, Defendant has sold and continues to sell the accused products and services in complete and reckless disregard of Finjan's patent rights. As such, Defendant has acted recklessly and continues to willfully, wantonly, and deliberately engage in acts of infringement of the '780 Patent, justifying an award to Finjan of increased damages under 35 U.S.C. § 284, and attorneys' fees and costs incurred under 35 U.S.C. § 285.

COUNT II
(Indirect Infringement of the '780 Patent pursuant to 35 U.S.C. § 271(b))

48. Finjan repeats, realleges, and incorporates by reference, as if fully set forth herein, the allegations of the preceding paragraphs, as set forth above.

49. Defendant has induced infringement of at least Claims 1-8 of the '780 Patent under 35 U.S.C. § 271(b).

50. In addition to directly infringing the '780 Patent, Defendant indirectly infringes the '780 Patent pursuant to 35 U.S.C. § 271(b) by instructing, directing and/or requiring others, including customers, purchasers, users and developers, to perform some of the steps of the method claims, either literally or under the doctrine of equivalents, of the '780 Patent, where all the steps of the method claims are performed by either Defendant or its customers, purchasers, users and developers, or some combination thereof. Defendant knew or was willfully blind to the fact that it was inducing others, including customers, purchasers, users and developers, to infringe by practicing, either themselves or in conjunction with Defendant, one or more method claims of the '780 Patent, including Claims 1-8.

51. Defendant knowingly and actively aided and abetted the direct infringement of the '780 Patent by instructing and encouraging its customers, purchasers, users and developers to use the '780 Accused Products. Such instruction and encouragement includes, but is not limited to, advising third parties to use the '780 Accused Products in an infringing manner, providing a mechanism through which third parties may infringe the '780 Patent, advertising and promoting the use of the '780 Accused Products in an infringing manner, and distributing guidelines and instructions to third parties on how to use the '780 Accused Products in an infringing manner.

52. Defendant updates and maintains an HTTP site with Defendant's quick start guides, administration guides, user guides, operating instructions, and training and certifications which cover in depth aspects of operating Defendant's offerings. *See, e.g.*, https://help.zscaler.com/zia and https://www.zscaler.com/resources/training-certification-overview?_ga=2.110592453.1966009248.1511983057-74035905.1511983057, attached hereto as Exhibits 14–15.

COUNT III

(Direct Infringement of the '633 Patent pursuant to 35 U.S.C. § 271(a))

53. Finjan repeats, realleges, and incorporates by reference, as if fully set forth herein, the allegations of the preceding paragraphs, as set forth above.

54. Defendant has infringed and continues to infringe Claims 1-41 of the '633 Patent in violation of 35 U.S.C. § 271(a).

55. Defendant's infringement is based upon literal infringement or infringement under the doctrine of equivalents, or both.

56. Defendant's acts of making, using, importing, selling, and/or offering for sale infringing products and services have been without the permission, consent, authorization, or license of Finjan.

57. Defendant's infringement includes, but is not limited to, the manufacture, use, sale, importation and/or offer for sale of Defendant's products and services, including its Internet Access Bundles (including Professional, Business, and Transformation), Private Access Bundle (including

Professional Business, and Enterprise), ZEN, Secure Web Gateway, Cloud Firewall, Cloud Sandbox, and Cloud Architecture products and services (collectively, the "'633 Accused Products").

58. The '633 Accused Products embody the patented invention of the '633 Patent and infringe the '633 Patent because they practice a method and a system of receiving downloadable information, determining whether that the downloadable information includes executable code, and transmitting mobile protection code to at least one information destination of the downloadable information if the downloadable information is determined to include executable code. For example, as shown below, the '633 Accused Products provide gateway security to end users, where they receive downloadable information and scan this downloadable information to determine whether it contains executable code. If the downloadable information includes executable code, mobile protection code and the executable code are sent to an information destination, such as the Zscaler Cloud Sandbox for processing within a sandbox.

59. The Zscaler Cloud Security Services will analyze executable code and create executable mobile protection code used within the virtual machine or sandbox described below. For example, the Zscaler Cloud Security Services will determine whether a downloadable includes executable code such as JavaScript.

About Advanced Threats Protection

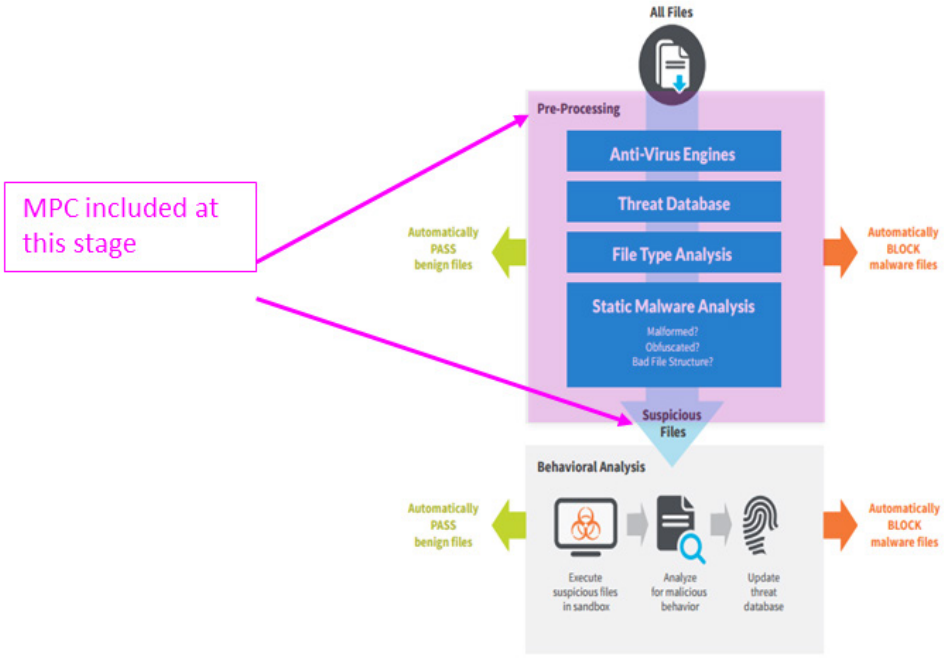
Today, web pages do not just contain plain text nested inside HTML tags. Instead, they are filled with Java applets, flash videos, ActiveX and other objects designed to run programs. Hackers routinely embed malicious scripts and applications not only on their own web sites but on legitimate websites that they have hacked as well. The Zscaler service identifies a variety of these objects and scripts and prevents them from downloading to the end user's browser.

When you configure the Advanced Threats Protection policy, you can set a Suspicious Content Protection (Page Risk™) value. The Zscaler service calculates the Risk Index of a page in real-time by identifying malicious content within the page (injected scripts, vulnerable ActiveX, zero-pixel iFrames, and many more) and creating a risk score, or Page Risk Index. Simultaneously, a Domain Risk Index is created using data such as hosting country, domain age, past results, and links to high-risk top-level domains. The Page Risk and Domain Risk are combined to produce a single score for the Risk Index; this score is then evaluated against the Suspicious Content Protection (Page Risk™) value that you set in this policy.

The Advanced Threats Protection policy also protects your traffic against the following advanced threats:

Ex. 16 at 1 (available at https://support.zscaler.com/hc/en-us/articles/204971595-How-do-I-configure-the-Advanced-Threats-Protection-policy-) (emphasis added).

60. The Accused Products infringe the '633 Patent because these products and services receive downloadable information, determine whether it contains executable code, and transmit mobile protection code to at least one information destination (e.g., Zscaler Cloud Sandbox) if the downloadable has executable code as shown below.



Ex. 12 at 2 (zscaler-apt-datasheet.pdf) (emphasis added).

61. As a result of Defendant's unlawful activities, Finjan has suffered and will continue to suffer irreparable harm for which there is no adequate remedy at law. Finjan and Defendant both compete in the security software space and Finjan is actively engaged in licensing its patent portfolio, as described for example in paragraphs 8-9 above. Defendant's continued infringement of the Asserted Patents causes harm to Finjan in the form of price erosion, loss of goodwill, damage to reputation, loss of business opportunities, inadequacy of money damages, and direct and indirect competition. Monetary damages are insufficient to compensate Finjan for these harms. Accordingly, Finjan is entitled to preliminary and/or permanent injunctive relief.

62. Defendant's infringement of the '633 Patent has injured and continues to injure Finjan in an amount to be proven at trial.

63. Defendant has been long-aware of Finjan's patents, including the '633 Patent, and has acted recklessly and egregiously with conduct that is willful, wanton, malicious, bad-faith, deliberate, wrongful, and flagrant by its continued infringing activity despite this possessing specific knowledge of the accused infringement. On or about May 26, 2016, Finjan informed Defendant of its patent portfolio, including Defendant's infringement thereof. Defendant also has direct knowledge of the '194 Patent, which is incorporated by reference by and is related to the '633 Patent.

64. On information and belief, despite its knowledge of the '633 Patent, Defendant has made no effort to design its products or services around the '633 Patent, in order to avoid infringement. Instead, on information and belief Defendant incorporated infringing technology into additional products, such as those identified in this Complaint. All of these actions demonstrate Defendant's blatant and egregious disregard for Finjan's patent rights.

65. Despite its knowledge of Finjan's patent portfolio and Asserted Patents, and being provided a representative claim chart of Finjan patents, Defendant has sold and continues to sell the accused products and services in complete and reckless disregard of Finjan's patent rights. As such, Defendant has acted recklessly and continues to willfully, wantonly, and deliberately engage in acts of infringement of the '633 Patent, justifying an award to Finjan of increased damages under 35 U.S.C. § 284, and attorneys' fees and costs incurred under 35 U.S.C. § 285.

COUNT IV
(Indirect Infringement of the '633 Patent pursuant to 35 U.S.C. § 271(b))

66. Finjan repeats, realleges, and incorporates by reference, as if fully set forth herein, the allegations of the preceding paragraphs, as set forth above.

67. Defendant has induced and continues to induce infringement of at least Claims 1-7, 14-20, 28-33, and 42-43 of the '633 Patent under 35 U.S.C. § 271(b).

68. In addition to directly infringing the '633 Patent, Defendant indirectly infringes the '633 Patent pursuant to 35 U.S.C. § 271(b) by instructing, directing and/or requiring others, including

customers, purchasers, users and developers, to perform some of the steps of the method claims, either literally or under the doctrine of equivalents, of the '633 Patent, where all the steps of the method claims are performed by either Defendant or its customers, purchasers, users and developers, or some combination thereof. Defendant knew or was willfully blind to the fact that it was inducing others, including customers, purchasers, users and developers, to infringe by practicing, either themselves or in conjunction with Defendant, one or more method claims of the '633 Patent, including Claims 1-7, 14-20, 28-33, and 42-43.

69. Defendant knowingly and actively aided and abetted the direct infringement of the '633 Patent by instructing and encouraging its customers, purchasers, users and developers to use the '633 Accused Products. Such instruction and encouragement includes, but is not limited to, advising third parties to use the '633 Accused Products in an infringing manner, providing a mechanism through which third parties may infringe the '633 Patent, advertising and promoting the use of the '633 Accused Products in an infringing manner, and distributing guidelines and instructions to third parties on how to use the '633 Accused Products in an infringing manner.

70. Defendant updates and maintains an HTTP site with Defendant's quick start guides, administration guides, user guides, operating instructions, and training and certifications which cover in depth aspects of operating Defendant's offerings. *See, e.g.*, https://help.zscaler.com/zia and https://www.zscaler.com/resources/training-certification-overview?_ga=2.110592453.1966009248.1511983057-74035905.1511983057, attached hereto as Exhibits 14–15.

COUNT V

(Direct Infringement of the '494 Patent pursuant to 35 U.S.C. § 271(a))

71. Finjan repeats, realleges, and incorporates by reference, as if fully set forth herein, the allegations of the preceding paragraphs, as set forth above.

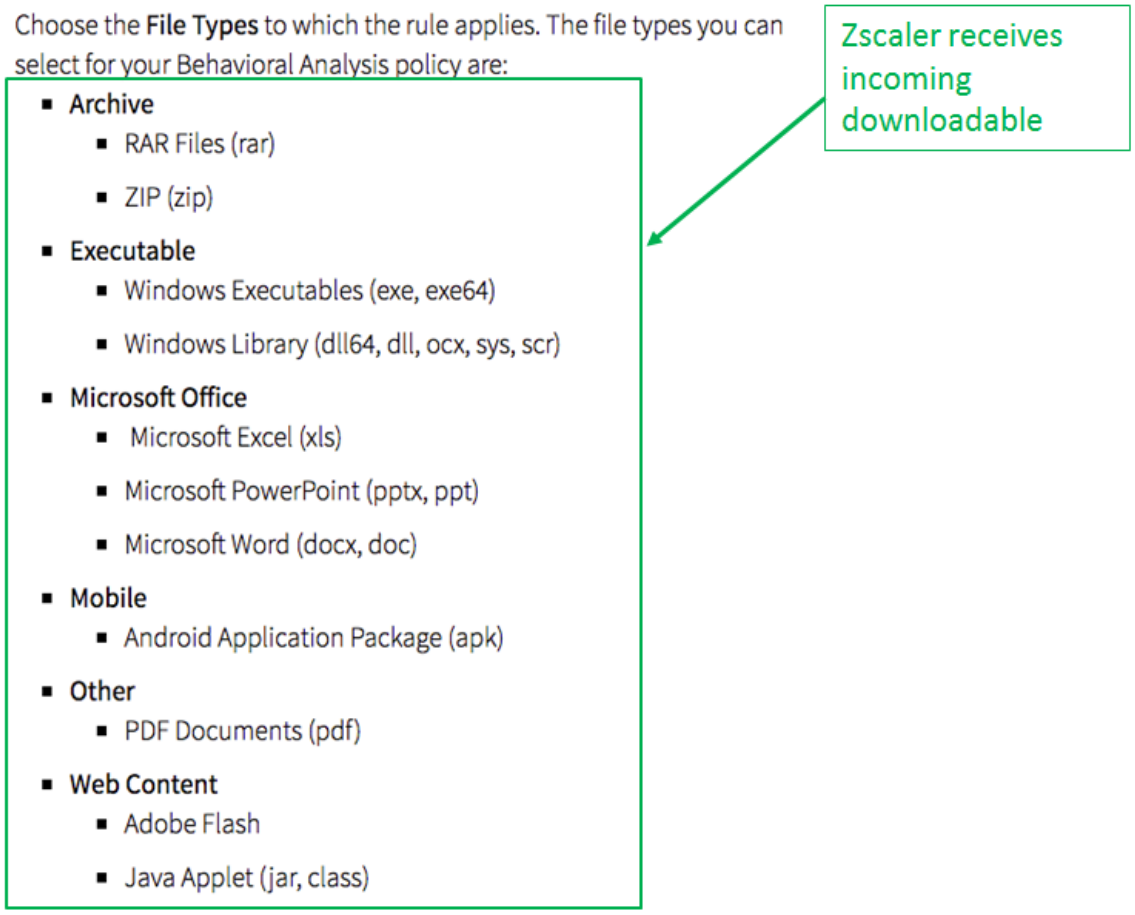
72. Defendant has infringed Claims 3-5 and 7-18 of the '494 Patent in violation of 35 U.S.C. § 271(a).

73. Defendant's infringement is based upon literal infringement or, in the alternative, infringement under the doctrine of equivalents.

74. Defendant acts of making, using, importing, selling, and/or offering for sale infringing products and services have been without the permission, consent, authorization or license of Finjan.

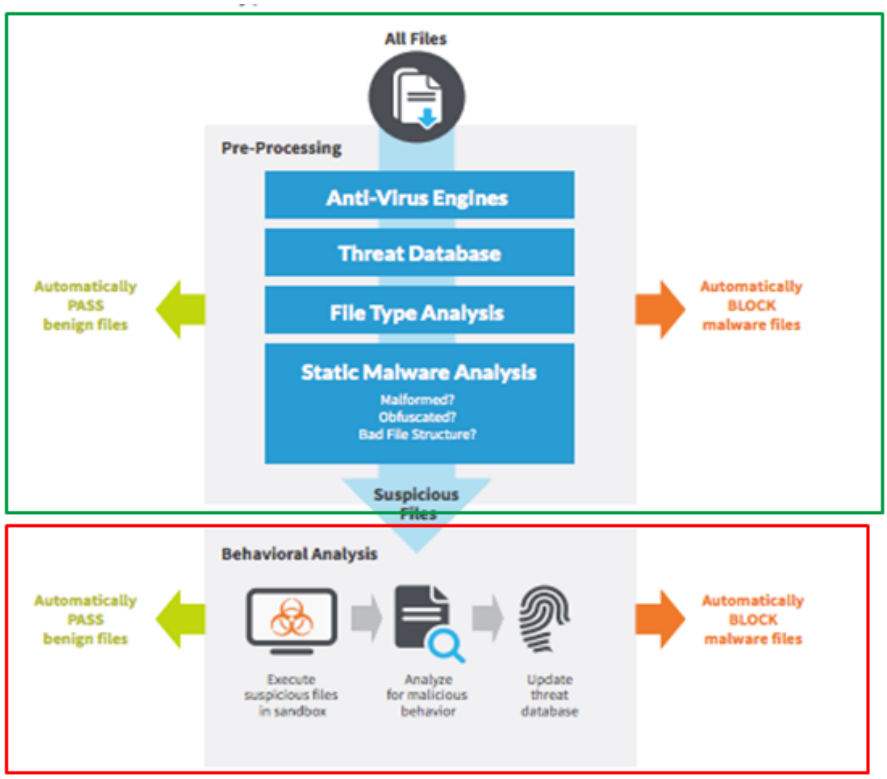
75. Defendant's infringement includes, but is not limited to, the manufacture, use, sale, importation and/or offer for sale of Defendant's products and services, including its Internet Access Bundles (including Professional, Business, and Transformation), Private Access Bundle (including Professional Business, and Enterprise), ZEN, Secure Web Gateway, Cloud Firewall, Cloud Sandbox, and Cloud Architecture products and services (collectively, the "'494 Accused Products").

76. The '494 Accused Products embody the patented invention of the '494 Patent and infringe the '494 Patent because they practice a computer-based method comprised of receiving an incoming downloadable, deriving security profile data for the downloadable, including a list of suspicious computer operations that may be attempted by the downloadable, and storing the downloadable security profile data in a database. For example, as shown below, the '494 Accused Products provide gateway security to end users, where incoming downloadables are received by the '494 Accused Products. For example, Zscaler's Cloud Sandbox derives security profile data for the downloadable, which includes a list of suspicious computer operations that may be attempted by the downloadable. As shown below, Zscaler's products and services receiving incoming downloadables such as JavaScript and Java.



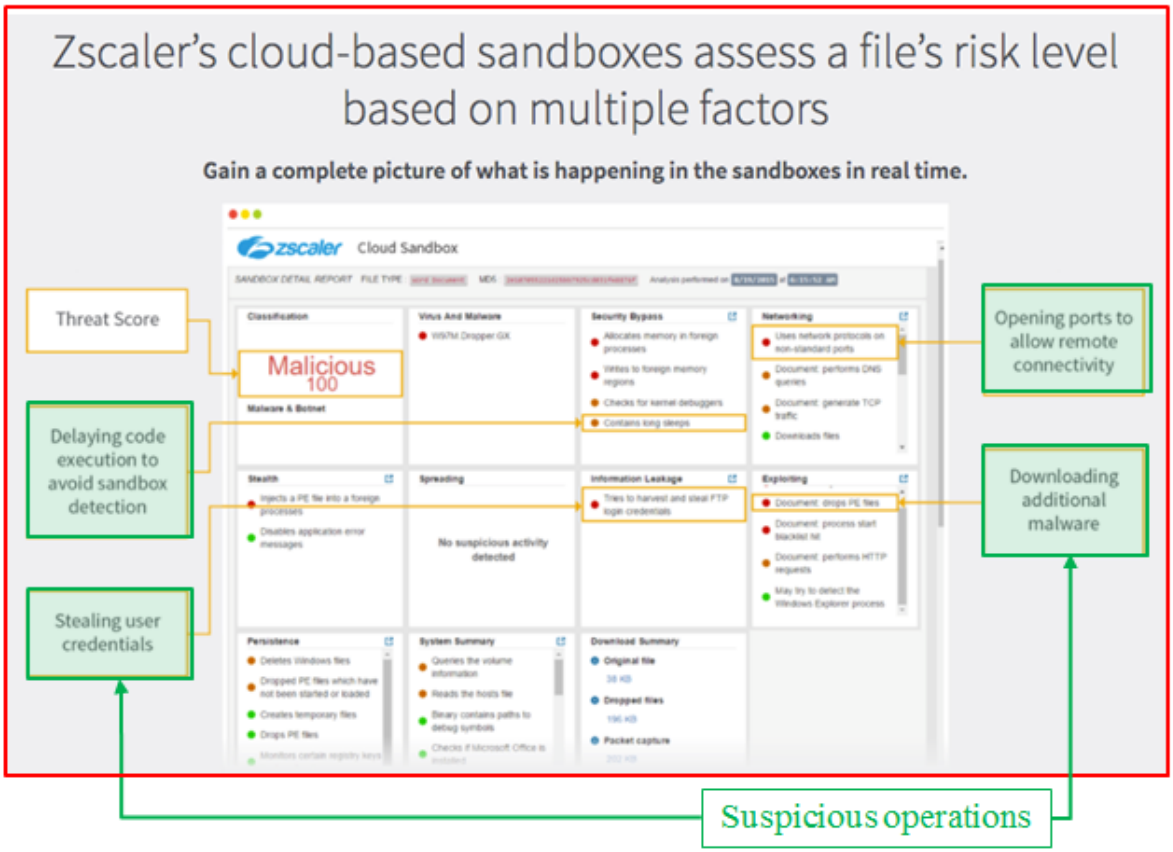
Ex. 17 at 2-3 (https://zscaler-alt.zendesk.com/hc/en-us/articles/216295668-How-do-I-configure-the-Behavioral-Analysis-policy-) (emphasis added).

77. As shown below, Zscaler's Cloud Sandbox performs static and dynamic analyses on the downloadable and then stores the downloadable security profile data in databases (such as the Zscaler "threat database") and provides reports of that data.

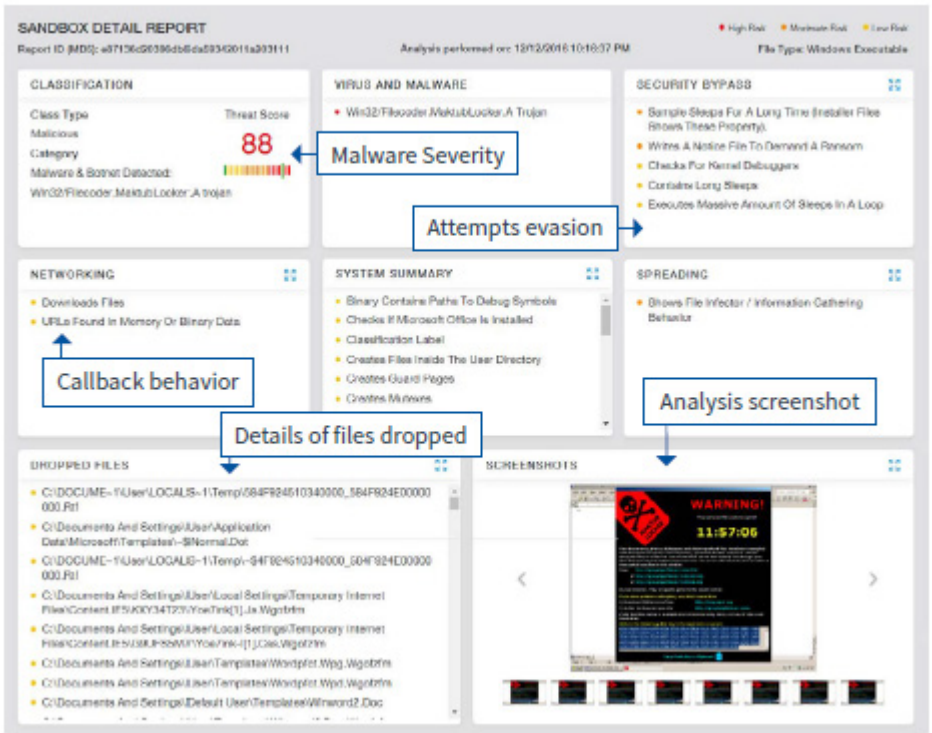


Ex. 12 at 2 (zscaler-apt-datasheet.pdf) (emphasis added).

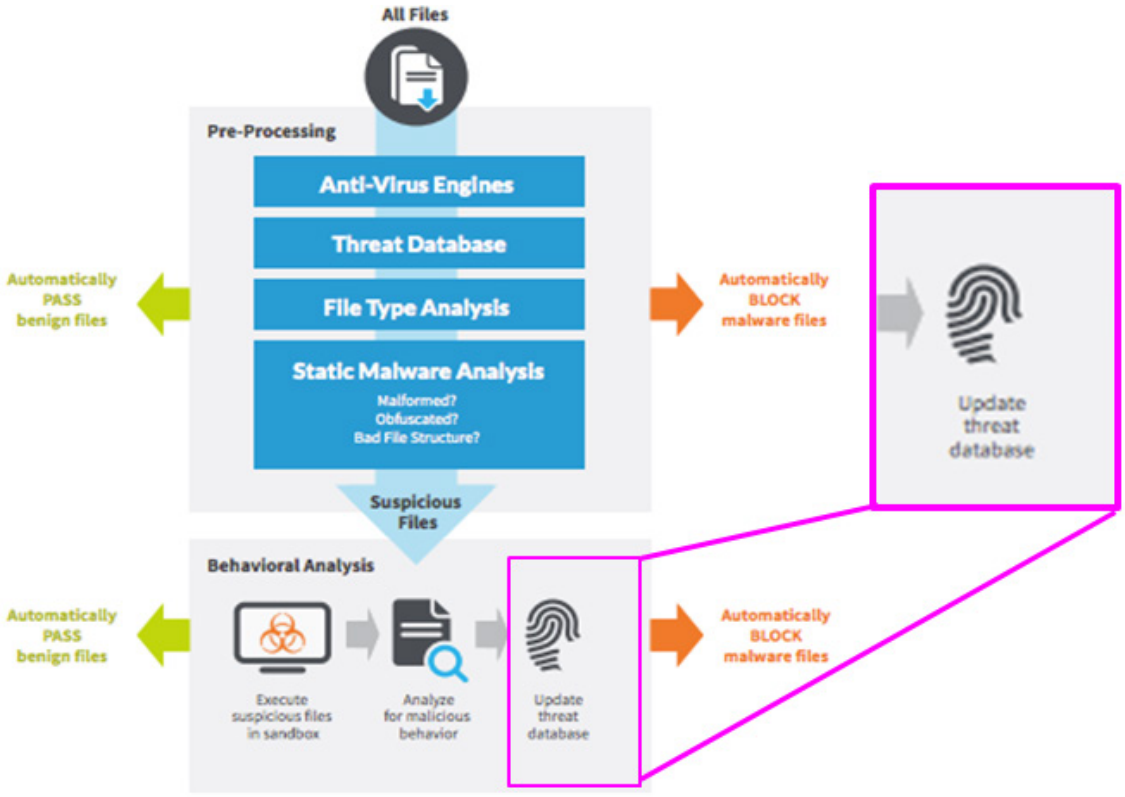
78. As shown below, Zscaler's Cloud Sandbox derives security profile data identifying suspicious operations and storing them in a database.



See https://www.zscaler.com/resources/ebooks/zscaler-cloud-sandbox (emphasis added).



Ex. 10 at 3 (available at https://www.zscaler.com/resources/solution-briefs/zscaler-cloud-sandbox.pdf).



Ex. 12 at 2 (zscaler-apt-datasheet.pdf) (emphasis added).

79. Defendant's infringement of the '494 Patent has injured Finjan in an amount to be proven at trial.

80. Defendant has been long-aware of Finjan's patents, including the '494 Patent, and has acted recklessly and egregiously with conduct that is willful, wanton, malicious, bad-faith, deliberate, wrongful, and flagrant by its continued infringing activity despite this possessing specific knowledge of the accused infringement. On or about May 26, 2016, Finjan informed Defendant of its patent portfolio, including the Asserted Patents and Defendant's infringement thereof. Defendant also has direct knowledge of the '194 Patent, which is incorporated by reference by and is related to the '494 Patent.

81. On information and belief, despite its knowledge of the '494 Patent, Defendant has made no effort to design its products or services around Finjan's '494 Patent, in order to avoid

infringement. Instead, on information and belief Defendant incorporated infringing technology into additional products, such as those identified in this Complaint. All of these actions demonstrate Defendant's blatant and egregious disregard for Finjan's patent rights.

82. Despite its knowledge of Finjan's patent portfolio and Asserted Patents, and being provided a representative claim chart of Finjan patents, Defendant has sold and continues to sell the accused products and services in complete and reckless disregard of Finjan's patent rights. As such, Defendant has acted recklessly and continues to willfully, wantonly, and deliberately engage in acts of infringement of the '494 Patent, justifying an award to Finjan of increased damages under 35 U.S.C. § 284, and attorneys' fees and costs incurred under 35 U.S.C. § 285.

COUNT VI
(Indirect Infringement of the '494 Patent pursuant to 35 U.S.C. § 271(b))

83. Finjan repeats, realleges, and incorporates by reference, as if fully set forth herein, the allegations of the preceding paragraphs, as set forth above.

84. Defendant has induced infringement of at least Claims 3-5 and 7-9 of the '494 Patent under 35 U.S.C. § 271(b).

85. In addition to directly infringing the '494 Patent, Defendant indirectly infringes the '494 Patent pursuant to 35 U.S.C. § 271(b) by instructing, directing and/or requiring others, including customers, purchasers, users and developers, to perform one or more of the steps of the method claims, either literally or under the doctrine of equivalents, of the '494 Patent, where all the steps of the method claims are performed by either Defendant, its customers, purchasers, users, and developers, or some combination thereof. Defendant knew or was willfully blind to the fact that it was inducing others, including customers, purchasers, users, and developers, to infringe by practicing, either themselves or in conjunction with Defendant, one or more method claims of the '494 Patent, including Claims 3-5 and 7-9.

86. Defendant knowingly and actively aided and abetted the direct infringement of the '494 Patent by instructing and encouraging its customers, purchasers, users, and developers to use the '494 Accused Products. Such instruction and encouragement includes, but is not limited to, advising

third parties to use the '494 Accused Products in an infringing manner, providing a mechanism through which third parties may infringe the '494 Patent, advertising and promoting the use of the '494 Accused Products in an infringing manner, and distributing guidelines and instructions to third parties on how to use the '494 Accused Products in an infringing manner.

87. Defendant updates and maintains an HTTP site with Defendant's quick start guides, administration guides, user guides, operating instructions, and training and certifications which cover in depth aspects of operating Defendant's offerings. *See, e.g.*, https://help.zscaler.com/zia and https://www.zscaler.com/resources/training-certification-overview?_ga=2.110592453.1966009248.1511983057-74035905.1511983057, attached hereto as Exhibits 14–15.

COUNT VII

(Direct Infringement of the '305 Patent pursuant to 35 U.S.C. § 271(a))

88. Finjan repeats, realleges, and incorporates by reference, as if fully set forth herein, the allegations of the preceding paragraphs, as set forth above.

89. Defendant has infringed and continues to infringe Claims 1-25 of the '305 Patent in violation of 35 U.S.C. § 271(a).

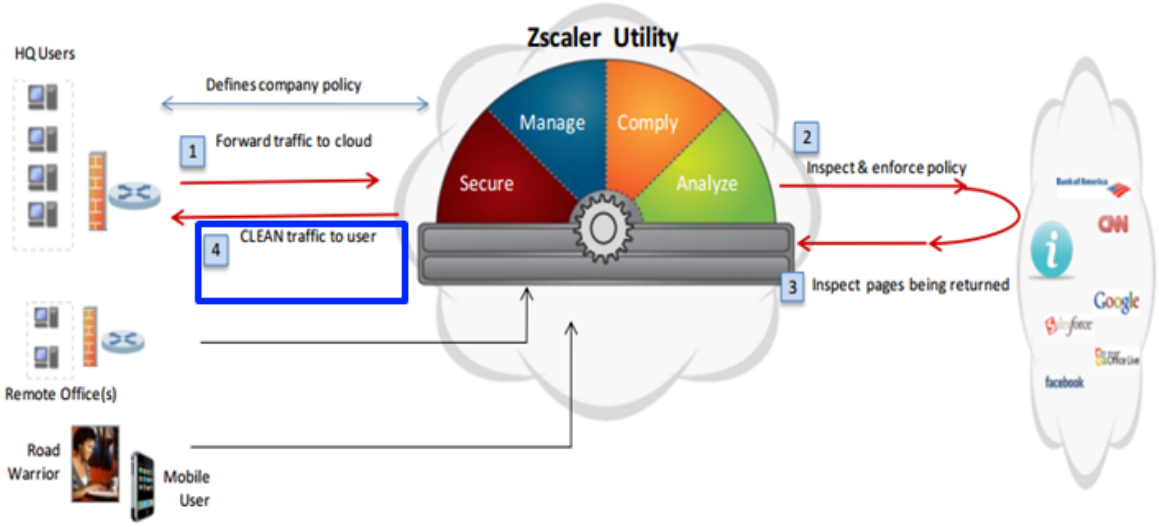
90. Defendant's infringement is based upon literal infringement or, in the alternative, infringement under the doctrine of equivalents.

91. Defendant acts of making, using, importing, selling, and/or offering for sale infringing products and services have been without the permission, consent, authorization or license of Finjan.

92. Defendant's infringement includes, but is not limited to, the manufacture, use, sale, importation and/or offer for sale of its products and services, including Zscaler's Internet Access Bundles (including Professional, Business, and Transformation), Private Access Bundle (including Professional Business, and Enterprise), ZEN, Secure Web Gateway, Cloud Firewall, Cloud Sandbox, and Cloud Architecture products and services (collectively, the "'305 Accused Products").

93. The '305 Accused Products embody the patented invention of the '305 Patent and infringe the '305 Patent because they practice a method of receiving incoming content from the

Internet, selectively diverting content from its intended destination, scanning the content to recognize potential computer exploits using analyzer and parser rules, and updating those rules to incorporate new behavioral rules. For example, as shown below, the '305 Accused Products provide gateway security to end users, where incoming internet content is received by the '305 Accused Products.



WHAT SETS ZSCALER APART?

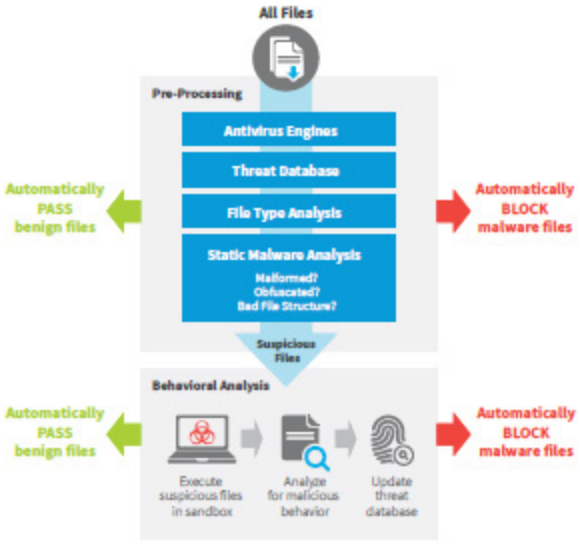
Zscaler sits between users and the Internet to make sure nothing bad comes in nothing good leaks out. Every byte of traffic is inspected to guard against cyberattacks, prevent data exfiltration, and enforce policies.

With Zscaler, there is no hardware or software to purchase and manage. Simply point your Internet-bound traffic to the closest Zscaler data center, and it instantly begins enforcing policies and blocking threats inline. You'll instantly benefit from:

Zscaler receives incoming content from the Internet on its destination to an Internet application.

Ex. 18 at 3 (ds_functionality_technical_overview.pdf) (emphasis added).

94. The '305 Accused Products selectively divert content from its intended destination, scanning it to recognize potential computer exploits using analyzer and parser rules, and sending the content to the Zscaler Cloud Sandbox.



Ex. 10 at 2 (available at https://www.zscaler.com/resources/solution-briefs/zscaler-cloud-sandbox.pdf).

95. As a result of Defendant's unlawful activities, Finjan has suffered and will continue to suffer irreparable harm for which there is no adequate remedy at law. Finjan and Defendant both compete in the security software space and Finjan is actively engaged in licensing its patent portfolio, as described for example in paragraphs 8-9 above. Defendant's continued infringement of the Asserted Patents, including the '305 Patent, causes harm to Finjan in the form of price erosion, loss of goodwill, damage to reputation, loss of business opportunities, inadequacy of money damages, and direct and indirect competition. Monetary damages are insufficient to compensate Finjan for these harms. Accordingly, Finjan is entitled to preliminary and/or permanent injunctive relief.

96. Defendant's infringement of the '305 Patent has injured and continues to injure Finjan in an amount to be proven at trial.

97. Defendant has been long-aware of Finjan's patents, including the '305 Patent, and has acted recklessly and egregiously with conduct that is willful, wanton, malicious, bad-faith, deliberate, wrongful, and flagrant by its continued infringing activity despite this possessing specific knowledge of the accused infringement. On or about May 26, 2016, Finjan informed Defendant of its patent portfolio, including the Asserted Patents and Defendant's infringement thereof. On or about May 26, 2016, Finjan provided a representative claim chart mapping the '305 Patent Defendant's '305

Accused Products and services. Defendant also has direct knowledge of the '194 Patent, which is incorporated by reference by and is related to the '305 Patent. Finjan diligently, but unsuccessfully, attempted to engage in good faith negotiations with Defendant regarding Finjan's patent portfolio, explaining Defendant's infringement of a representative claim of the '305 Patent, element-by-element.

98. On information and belief, even after being shown detailed analysis of how its products infringe Finjan's '305 Patent, Defendant has made no effort to design its products or services around Finjan's '305 Patent, in order to avoid infringement. Instead, on information and belief, Defendant incorporated infringing technology into additional products, such as those identified in this Complaint. All of these actions demonstrate Defendant's blatant and egregious disregard for Finjan's patent rights.

99. Despite its knowledge of Finjan's patent portfolio and Asserted Patents, and being provided a representative claim chart of Finjan patents, Defendant has sold and continues to sell the accused products and services in complete and reckless disregard of Finjan's patent rights. As such, Defendant has acted recklessly and continues to willfully, wantonly, and deliberately engage in acts of infringement of the '305 Patent, justifying an award to Finjan of increased damages under 35 U.S.C. § 284, and attorneys' fees and costs incurred under 35 U.S.C. § 285.

COUNT VIII
(Indirect Infringement of the '305 Patent pursuant to 35 U.S.C. § 271(b))

100. Finjan repeats, realleges, and incorporates by reference, as if fully set forth herein, the allegations of the preceding paragraphs, as set forth above.

101. Defendant has induced and continues to induce infringement of at least Claims 13-24 of the '305 Patent under 35 U.S.C. § 271(b).

102. In addition to directly infringing the '305 Patent, Defendant indirectly infringes the '305 Patent pursuant to 35 U.S.C. § 271(b) by instructing, directing and/or requiring others, including customers, purchasers, users and developers, to perform one or more of the steps of the method claims, either literally or under the doctrine of equivalents, of the '305 Patent, where all the steps of

the method claims are performed by either Defendant, its customers, purchasers, users, and developers, or some combination thereof. Defendant knew or was willfully blind to the fact that it was inducing others, including customers, purchasers, users, and developers, to infringe by practicing, either themselves or in conjunction with Defendant, one or more method claims of the '305 Patent, including Claims 13-24.

103. Defendant knowingly and actively aided and abetted the direct infringement of the '305 Patent by instructing and encouraging its customers, purchasers, users, and developers to use the '305 Accused Products. Such instruction and encouragement includes, but is not limited to, advising third parties to use the '305 Accused Products in an infringing manner, providing a mechanism through which third parties may infringe the '305 Patent, advertising and promoting the use of the '305 Accused Products in an infringing manner, and distributing guidelines and instructions to third parties on how to use the '305 Accused Products in an infringing manner.

104. Defendant updates and maintains an HTTP site with Defendant's quick start guides, administration guides, user guides, operating instructions, and training and certifications which cover in depth aspects of operating Defendant's offerings. *See, e.g.*, https://help.zscaler.com/zia and https://www.zscaler.com/resources/training-certification-overview?_ga=2.110592453.1966009248.1511983057-74035905.1511983057, attached hereto as Exhibits 14–15.

PRAYER FOR RELIEF

WHEREFORE, Finjan prays for judgment and relief as follows:

A. An entry of judgment holding that Zscaler has infringed the '780 Patent, the '633 Patent, the '494 Patent, and the '305 Patent and is continuing to infringe the '633 Patent and '305 Patent; and has induced infringement of the '780 Patent, the '633 Patent, the '494 Patent, and the '305 Patent and is continuing to induce infringement of the '633 Patent and '305 Patent;

B. A preliminary and permanent injunction against Zscaler and its officers, employees, agents, servants, attorneys, instrumentalities, and/or those in privity with them, from continuing to infringe the '633 Patent and the '305 Patent, or inducing the infringement of the '633 Patent and the

'305 Patent, and for all further and proper injunctive relief pursuant to 35 U.S.C. § 283;

C. An award to Finjan of such past damages as it shall prove at trial against Zscaler that are adequate to fully compensate Finjan for Zscaler's infringement of the '844 Patent, the '780 Patent, the '633 Patent, the '494 Patent, and the '305 Patent, said damages to be no less than a reasonable royalty;

D. A determination that Zscaler's infringement has been willful, wanton, and deliberate and that the damages against it be increased up to treble on this basis or for any other basis in accordance with the law;

E. A finding that this case is "exceptional" and an award to Finjan of its costs and reasonable attorneys' fees, as provided by 35 U.S.C. § 285;

F. An accounting of all infringing sales and revenues, together with post judgment interest and prejudgment interest from the first date of infringement of the '780 Patent, the '633 Patent, the '494 Patent, and the '305 Patent; and

G. Such further and other relief as the Court may deem proper.

Respectfully submitted,

Dated: December 5, 2017

By: */s/ Paul J. Andre*

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FINJAN, INC.

DEMAND FOR JURY TRIAL

Finjan demands a jury trial on all issues so triable.

Respectfully submitted,

Dated: December 5, 2017

By: */s/ Paul J. Andre*

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James Hannah (State Bar No. 237978)
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