

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

FINJAN, INC., a Delaware corporation,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	Civil Action No. 10-593-GMS
MCAFEE, INC., a Delaware corporation,	)	
SYMANTEC CORP., a Delaware	)	
corporation, WEBROOT SOFTWARE,	)	<b>DEMAND FOR JURY TRIAL</b>
INC., a Delaware corporation, WEBSense	)	
INC., a Delaware corporation and	)	
SOPHOS, INC., a Massachusetts	)	
corporation,	)	
	)	
Defendants.	)	

**PLAINTIFF FINJAN, INC.'S AMENDED  
COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff Finjan, Inc. ("Finjan") files its Amended Complaint for Patent Infringement and Jury Demand against Defendants McAfee, Inc. ("McAfee"), Symantec Corp. ("Symantec"), Webroot, Inc. ("Webroot"), Websense, Inc. ("Websense"), and Sophos, Inc. ("Sophos"), (collectively "Defendants") and alleges as follows:

**THE PARTIES**

1. Finjan is a corporation organized and existing under the laws of Delaware, with its corporate headquarters at 1313 N. Market Street, Suite 5100, Wilmington, Delaware 19801.
2. On information and belief, McAfee is a corporation organized and existing under the laws of Delaware, with its corporate headquarters at 2821 Mission College Blvd., Santa Clara, California 95054.
3. On information and belief, Symantec is a corporation organized and existing under the laws of Delaware, with its corporate headquarters at 350 Ellis Street, Mountain View, California 94043.

4. On information and belief, Webroot is a corporation organized and existing under the laws of Delaware, with its corporate headquarters at 385 Interlocken Crescent, Suite 800, Broomfield, Colorado 80301.

5. On information and belief, Websense is a corporation organized and existing under the laws of Delaware, with its corporate headquarters at 10240 Sorrento Valley Road, San Diego, California 92121.

6. On information and belief, Sophos is a corporation organized and existing under the laws of Massachusetts, with its corporate headquarters at 3 Van de Graaff Drive, 2<sup>nd</sup> Floor, Burlington, Massachusetts 01803.

#### **JURISDICTION AND VENUE**

7. This action arises under the Patent Act, 35 U.S.C. § 1 *et seq.* This Court has original jurisdiction over this controversy pursuant to 28 U.S.C. § 1331 and 1338.

8. Venue in this judicial district is proper under 28 U.S.C. § 1391 (b) and (c) and/or 28 U.S.C. § 1400(b). Personal jurisdiction over Defendants comports with the United States Constitution because, on information and belief, Defendants conduct continuous and systematic business in this district and have infringed, contributorily infringed and/or induced the infringement of United States Patent Nos. 6,092,194 and 6,480,962 in this district, and continue to do so. Further, McAfee, Symantec, Webroot and Websense are Delaware corporations.

#### **PLAINTIFF'S PATENTS-IN-SUIT**

9. On July 18, 2000, United States Patent No. 6,092,194 (the "194 Patent"), entitled 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 '194 Patent is attached to this Complaint as Exhibit A and is incorporated by reference herein.

10. All rights, title, and interest in the '194 Patent have been assigned to Finjan, which is the sole owner of the '194 Patent.

11. The '194 Patent is generally directed to a system and method for protecting networks and computers from hostile downloadable executable application programs.

12. In accordance with 35 U.S.C. § 282, the '194 Patent, and each and every claim thereof, is presumed valid.

13. On November 12, 2002, United States Patent No. 6,480,962 (the "'962 Patent"), entitled, SYSTEM AND METHOD FOR PROTECTING A CLIENT DURING RUNTIME FROM HOSTILE DOWNLOADABLES, was issued to Shlomo Touboul. A true and correct copy of the '962 Patent is attached to this Complaint as Exhibit B and is incorporated by reference herein.

14. All rights, title, and interest in the '962 Patent have been assigned to Finjan, which is the sole owner of the '962 Patent.

15. The '962 Patent is generally directed to a system and method for protecting a client during runtime from hostile downloadables by monitoring requests made to the operating system.

16. In accordance with 35 U.S.C. § 282, the '962 Patent, and each and every claim thereof, is presumed valid.

#### **DEFENDANTS' PATENT INFRINGEMENT**

17. Finjan is informed and believes that McAfee has infringed and continues to infringe, has contributed to and continues to contribute to acts of infringement, and/or has

actively and knowingly induced and continues to actively and knowingly induce the infringement of the '194 Patent by making, using, importing, selling, and/or offering for sale products and services, including but not limited to, McAfee's Web Gateway, Email Gateway, Email and Web Security Appliance, Blade Server Content Security, Email Security as a Service, and Web Protection Security as a Service.

18. Finjan is informed and believes that McAfee has infringed and continues to infringe, has contributed to and continues to contribute to acts of infringement, and/or has actively and knowingly induced and continues to actively and knowingly induce the infringement of the '962 Patent by making, using, importing, selling, and/or offering for sale products and services, including but not limited to, McAfee VirusScan Plus, McAfee Internet Security, McAfee Total Protection, McAfee VirusScan, McAfee VirusScan with McAfee AntiSpyware Enterprise, McAfee GroupShield for Domino, McAfee GroupShield for Exchange, McAfee Host Intrusion Prevention, McAfee LinuxShield, McAfee Security for Lotus Domino Linux, McAfee Security for Macintosh and McAfee VirusScan Macintosh.

19. Finjan is informed and believes that Symantec has infringed and continues to infringe, has contributed to and continues to contribute to acts of infringement, and/or has actively and knowingly induced and continues to actively and knowingly induce the infringement of the '194 Patent by making, using, importing, selling, and/or offering for sale products and services, including but not limited to, Symantec's Brightmail Gateway.

20. Finjan is informed and believes that Symantec has infringed and continues to infringe, has contributed to and continues to contribute to acts of infringement, and/or has actively and knowingly induced and continues to actively and knowingly induce the infringement of the '962 Patent by making, using, importing, selling, and/or offering for sale

products and services, including but not limited to, Symantec's Norton 360, Norton Internet Security, Norton AntiVirus, Endpoint Protection, Endpoint Protection Small Business Edition, Symantec AntiVirus and Symantec AntiVirus Corporate Edition.

21. Finjan is informed and believes that Webroot has infringed and continues to infringe, has contributed to and continues to contribute to acts of infringement, and/or has actively and knowingly induced and continues to actively and knowingly induce the infringement of the '194 Patent by making, using, importing, selling, and/or offering for sale products and services, including but not limited to, Webroot's Web Security Software as a Service and Email Security Software as a Service.

22. Finjan is informed and believes that Webroot has infringed and continues to infringe, has contributed to and continues to contribute to acts of infringement, and/or has actively and knowingly induced and continues to actively and knowingly induce the infringement of the '962 Patent by making, using, importing, selling, and/or offering for sale products and services, including but not limited to, Webroot's Spy Sweeper, AntiVirus with Spy Sweeper and Internet Security Essentials.

23. Finjan is informed and believes that Websense has infringed and continues to infringe, has contributed to and continues to contribute to acts of infringement, and/or has actively and knowingly induced and continues to actively and knowingly induce the infringement of the '194 Patent by making, using, importing, selling, and/or offering for sale products and services, including but not limited to, Websense's Web Filter, Web Security, and Web Security Gateway.

24. Finjan is informed and believes that Sophos has infringed and continues to infringe, has contributed to and continues to contribute to acts of infringement, and/or has actively and

knowingly induced and continues to actively and knowingly induce the infringement of the '194 Patent by making, using, importing, selling, and/or offering for sale products and services, including but not limited to, Sophos' Web Security and Control Web Appliance and Email Security and Control Email Appliance.

25. Finjan is informed and believes that Sophos has infringed and continues to infringe, has contributed to and continues to contribute to acts of infringement, and/or has actively and knowingly induced and continues to actively and knowingly induce the infringement of the '962 Patent by making, using, importing, selling, and/or offering for sale products and services, including but not limited to, Sophos' Endpoint Security and Data Protection product.

#### **FIRST CAUSE OF ACTION**

##### **(Infringement of the '194 Patent - McAfee)**

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

27. Finjan alleges that McAfee infringes one or more claims of the '194 Patent under 35 U.S.C. § 271(a), literally or under the doctrine of equivalents, by making, using, importing, offering to sell and/or selling gateway security products and services, including but not limited to, McAfee's Web Gateway, Email Gateway, Email and Web Security Appliance, Blade Server Content Security, Email Security as a Service, and Web Protection Security as a Service.

28. Finjan alleges that McAfee has actively induced, and continues to induce, the infringement of one or more claims of the '194 Patent under 35 U.S.C. § 271(b), literally or under the doctrine of equivalents, by actively inducing the manufacture, use, offer for sale, sale, and/or import of gateway security products and services.

29. Finjan is informed and believes that McAfee had knowledge of the '194 Patent on or shortly after the date of its issuance. For example, McAfee has known of the '194 Patent since at least February 27, 2002, when McAfee's predecessor, Network Associates, Inc., filed an Information Disclosure Statement with the United States Patent Office during the prosecution of Application No. 09/916,969 citing the '194 Patent. On June 19, 2002, Network Associates, Inc. filed an Information Disclosure Statement citing the '194 Patent during the prosecution of Application No. 09/895,499.

30. McAfee publishes and distributes installation guides, user guides, product guides, white papers, datasheets and other documents intending that persons including the manufacturers, sellers, resellers, distributors, users and customers engage in direct infringement by their use of McAfee's gateway security products and services, including but not limited to, McAfee's Web Gateway, Email Gateway, Email and Web Security Appliance, Blade Server Content Security, Email Security as a Service, and Web Protection Security as a Service.

31. Finjan alleges that McAfee has contributorily infringed and continues to contributorily infringe the '194 Patent under 35 U.S.C. § 271(c), literally or under the doctrine of equivalents, by offering to sell and/or selling within the United States, and/or importing into the United States, a component of a machine, manufacture, combination or composition covered by the '194 Patent, constituting a material part of the invention, which is not a staple article or commodity of commerce suitable for substantial non-infringing use.

32. On information and belief, McAfee knows that the component and/or material and/or apparatus is especially made or especially adapted for use in infringing the '194 Patent by persons, including manufacturers, sellers, resellers, distributors, users and customers of

McAfee's gateway security products and services, including but not limited to, McAfee's Web Gateway, Email Gateway, Email and Web Security Appliance, Blade Server Content Security, Email Security as a Service, and Web Protection Security as a Service.

33. McAfee'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.

34. Finjan is informed and believes that as a result of McAfee's unlawful activities, Finjan has suffered and will continue to suffer irreparable harm for which there is no adequate remedy at law. Accordingly, Finjan is entitled to preliminary and/or permanent injunctive relief pursuant to 35 U.S.C. § 283.

35. Finjan is informed and believes that McAfee's infringement of the '194 Patent has been and continues to be willful, deliberate and/or objectively reckless.

36. Finjan is informed and believes that McAfee's infringement of the '194 Patent has injured and continues to injure Finjan in an amount to be proven at trial.

### **SECOND CAUSE OF ACTION**

#### **(Infringement of the '962 Patent - McAfee)**

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. Finjan alleges that McAfee infringes one or more claims of the '962 Patent under 35 U.S.C. § 271(a), literally or under the doctrine of equivalents, by making, using, importing, offering to sell and/or selling client security products and services, including but not limited to, McAfee VirusScan Plus, McAfee Internet Security, McAfee Total Protection, McAfee VirusScan, McAfee VirusScan with McAfee AntiSpyware Enterprise, McAfee GroupShield



for Domino, McAfee GroupShield for Exchange, McAfee Host Intrusion Prevention, McAfee LinuxShield, McAfee Security for Lotus Domino Linux, McAfee Security for Macintosh and McAfee VirusScan Macintosh.

39. Finjan alleges that McAfee has actively induced, and continues to induce, the infringement of one or more claims of the '962 Patent under 35 U.S.C. § 271(b), literally or under the doctrine of equivalents, by actively inducing the manufacture, use, offer for sale, sale, and/or import of client security products and services.

40. Finjan is informed and believes that McAfee had knowledge of the '962 Patent on or shortly after the date of its issuance. Finjan and McAfee's predecessor, Network Associates, Inc., were parties to a software license agreement involving Finjan's SurfingGate product that was marked with the '962 Patent no later than 2003.

41. McAfee publishes and distributes installation guides, user guides, product guides, white papers, datasheets and other documents intending that persons including the manufacturers, sellers, resellers, distributors, users and customers engage in direct infringement by their use of McAfee's client security products and services, including but not limited to, McAfee VirusScan Plus, McAfee Internet Security, McAfee Total Protection, McAfee VirusScan, McAfee VirusScan with McAfee AntiSpyware Enterprise, McAfee GroupShield for Domino, McAfee GroupShield for Exchange, McAfee Host Intrusion Prevention, McAfee LinuxShield, McAfee Security for Lotus Domino Linux, McAfee Security for Macintosh and McAfee VirusScan Macintosh.

42. Finjan alleges that McAfee has contributorily infringed and continues to contributorily infringe the '962 Patent under 35 U.S.C. § 271(c), literally or under the doctrine of equivalents, by offering to sell and/or selling within the United States, and/or importing into

the United States, a component of a machine, manufacture, combination or composition covered by the '962 Patent, constituting a material part of the invention, which is not a staple article or commodity of commerce suitable for substantial non-infringing use.

43. On information and belief, McAfee knows that the component and/or material and/or apparatus is especially made or especially adapted for use in infringing the '962 Patent by persons, including manufacturers, sellers, resellers, distributors, users and customers of McAfee's client security products and services including, but not limited, McAfee VirusScan Plus, McAfee Internet Security, McAfee Total Protection, McAfee VirusScan, McAfee VirusScan with McAfee AntiSpyware Enterprise, McAfee GroupShield for Domino, McAfee GroupShield for Exchange, McAfee Host Intrusion Prevention, McAfee LinuxShield, McAfee Security for Lotus Domino Linux, McAfee Security for Macintosh and McAfee VirusScan Macintosh.

44. McAfee'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.

45. Finjan is informed and believes that as a result of McAfee's unlawful activities, Finjan has suffered and will continue to suffer irreparable harm for which there is no adequate remedy at law. Accordingly, Finjan is entitled to preliminary and/or permanent injunctive relief pursuant to 35 U.S.C. § 283.

46. Finjan is informed and believes that McAfee's infringement of the '962 Patent has been and continues to be willful, deliberate and/or objectively reckless.

47. Finjan is informed and believes that McAfee's infringement of the '962 Patent has injured and continues to injure Finjan in an amount to be proven at trial.

**THIRD CAUSE OF ACTION**

**(Infringement of the '194 Patent - Symantec)**

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. Finjan alleges that Symantec infringes one or more claims of the '194 Patent under 35 U.S.C. § 271(a), literally or under the doctrine of equivalents, by making, using, importing, offering to sell and/or selling gateway security products and services, including but not limited to, Symantec's Brightmail Gateway.

50. Finjan alleges that Symantec has actively induced, and continues to induce, the infringement of one or more claims of the '194 Patent under 35 U.S.C. § 271(b), literally or under the doctrine of equivalents, by actively inducing the manufacture, use, offer for sale, sale, and/or import of gateway security products and services.

51. Finjan is informed and believes Symantec had knowledge of the '194 Patent on or shortly after the date of its issuance. For example, Symantec has known of the '194 Patent since at least the date when the Patent Examiner cited the '194 Patent during the prosecution of Application No. 09/483,536. This application led to the issuance on August 31, 2004 of U.S. Patent No. 6,785,818, which was assigned to Symantec. On March 21, 2005, Symantec filed an Information Disclosure Statement with the United States Patent Office during the prosecution of Application No. 10/819,494 citing the '194 Patent.

52. Symantec publishes and distributes administration guides, implementation guides, user guides, product guides, white papers, datasheets and other documents intending that persons including the manufacturers, sellers, resellers, distributors, users and customers engage

in direct infringement by their use of Symantec's gateway security products and services, including but not limited to, Symantec's Brightmail Gateway.

53. Finjan alleges that Symantec has contributorily infringed and continues to contributorily infringe the '194 Patent under 35 U.S.C. § 271(c), literally or under the doctrine of equivalents, by offering to sell and/or selling within the United States, and/or importing into the United States, a component of a machine, manufacture, combination or composition covered by the '194 Patent, constituting a material part of the invention, which is not a staple article or commodity of commerce suitable for substantial non-infringing use.

54. On information and belief, Symantec knows that the component and/or material and/or apparatus is especially made or especially adapted for use in infringing the '194 Patent by persons, including manufacturers, sellers, resellers, distributors, users and customers of Symantec's gateway security products and services, including but not limited to, Symantec's Brightmail Gateway.

55. Symantec'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.

56. Finjan is informed and believes that as a result of Symantec's unlawful activities, Finjan has suffered and will continue to suffer irreparable harm for which there is no adequate remedy at law. Accordingly, Finjan is entitled to preliminary and/or permanent injunctive relief pursuant to 35 U.S.C. § 283.

57. Finjan is informed and believes that Symantec's infringement of the '194 Patent has been and continues to be willful, deliberate and/or objectively reckless.

58. Finjan is informed and believes that Symantec's infringement of the '194 Patent has injured and continues to injure Finjan in an amount to be proven at trial.

**FOURTH CAUSE OF ACTION**

**(Infringement of the '962 Patent - Symantec)**

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

60. Finjan alleges that Symantec infringes one or more claims of the '962 Patent under 35 U.S.C. § 271(a), literally or under the doctrine of equivalents, by making, using, importing, offering to sell and/or selling client security products and services, including but not limited to, Symantec's Norton 360, Norton Internet Security, Norton AntiVirus, Endpoint Protection, Endpoint Protection Small Business Edition, Symantec AntiVirus and Symantec AntiVirus Corporate Edition.

61. Finjan alleges that Symantec has actively induced, and continues to induce, the infringement of one or more claims of the '962 Patent under 35 U.S.C. § 271(b), literally or under the doctrine of equivalents, by actively inducing the manufacture, use, offer for sale, sale, and/or import of client security products and services.

62. Finjan is informed and believes that Symantec had knowledge of the '962 Patent on or shortly after the date of its issuance. For example, Symantec has known of the '962 Patent since at least December 11, 2006, when Symantec filed an Information Disclosure Statement with the United States Patent Office during the prosecution of Application No. 10/404,167 citing the '962 Patent.

63. Symantec publishes and distributes administration guides, implementation guides, user guides, product guides, white papers, datasheets and other documents intending that

persons including the manufacturers, sellers, resellers, distributors, users and customers engage in direct infringement by their use of Symantec's client security products and services, including but not limited to, Symantec's Norton 360, Norton Internet Security, Norton AntiVirus, Endpoint Protection, Endpoint Protection Small Business Edition, Symantec AntiVirus and Symantec AntiVirus Corporate Edition.

64. Finjan alleges that Symantec has contributorily infringed and continues to contributorily infringe the '962 Patent under 35 U.S.C. § 271(c), literally or under the doctrine of equivalents, by offering to sell and/or selling within the United States, and/or importing into the United States, a component of a machine, manufacture, combination or composition covered by the '962 Patent, constituting a material part of the invention, which is not a staple article or commodity of commerce suitable for substantial non-infringing use.

65. On information and belief, Symantec knows that the component and/or material and/or apparatus is especially made or especially adapted for use in infringing the '962 Patent by persons, including manufacturers, sellers, resellers, distributors, users and customers of Symantec's client security products and services, including but not limited to, Symantec's Norton 360, Norton Internet Security, Norton AntiVirus, Endpoint Protection, Endpoint Protection Small Business Edition, Symantec AntiVirus and Symantec AntiVirus Corporate Edition.

66. Symantec'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.

67. Finjan is informed and believes that as a result of Symantec's unlawful activities, Finjan has suffered and will continue to suffer irreparable harm for which there is no adequate

remedy at law. Accordingly, Finjan is entitled to preliminary and/or permanent injunctive relief pursuant to 35 U.S.C. § 283.

68. Finjan is informed and believes that Symantec's infringement of the '962 Patent has been and continues to be willful, deliberate and/or objectively reckless.

69. Finjan is informed and believes that Symantec's infringement of the '962 Patent has injured and continues to injure Finjan in an amount to be proven at trial.

#### **FIFTH CAUSE OF ACTION**

##### **(Infringement of the '194 Patent - Webroot)**

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

71. Finjan alleges that Webroot infringes one or more claims of the '194 Patent under 35 U.S.C. § 271(a), literally or under the doctrine of equivalents, by making, using, importing, offering to sell and/or selling gateway security products and services, including but not limited to, Webroot's Web Security Software as a Service and Email Security Software as a Service.

72. Finjan alleges that Webroot has actively induced, and continues to induce, the infringement of one or more claims of the '194 Patent under 35 U.S.C. § 271(b), literally or under the doctrine of equivalents, by actively inducing the manufacture, use, offer for sale, sale, and/or import of gateway security products and services.

73. Finjan is informed and believes that Webroot had knowledge of the '194 Patent on or shortly after the date of its issuance. For example, Webroot has known of the '194 Patent since at least September 1, 2006, when Webroot filed an Information Disclosure Statement with the United States Patent Office during the prosecution of Application No. 11/104,202

citing the '194 Patent. On September 18, 2006, Webroot filed an Information Disclosure Statement citing the '194 Patent during the prosecution of Application No. 10/956,573.

74. Webroot publishes and distributes user guides, white papers, datasheets and other documents intending that persons including the manufacturers, sellers, resellers, distributors, users and customers engage in direct infringement by their use of Webroot's gateway security products and services, including but not limited to, Webroot's Web Security Software as a Service and Email Security Software as a Service.

75. Finjan alleges that Webroot has contributorily infringed and continues to contributorily infringe the '194 Patent under 35 U.S.C. § 271(c), literally or under the doctrine of equivalents, by offering to sell and/or selling within the United States, and/or importing into the United States, a component of a machine, manufacture, combination or composition covered by the '194 Patent, constituting a material part of the invention, which is not a staple article or commodity of commerce suitable for substantial non-infringing use.

76. On information and belief, Webroot knows that the component and/or material and/or apparatus is especially made or especially adapted for use in infringing the '194 Patent by persons, including manufacturers, sellers, resellers, distributors, users and customers of Webroot's gateway security products and services, including but not limited to, Webroot's Web Security Software as a Service and Email Security Software as a Service.

77. Webroot'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.

78. Finjan is informed and believes that as a result of Webroot's unlawful activities, Finjan has suffered and will continue to suffer irreparable harm for which there is no adequate



remedy at law. Accordingly, Finjan is entitled to preliminary and/or permanent injunctive relief pursuant to 35 U.S.C. § 283.

79. Finjan is informed and believes that Webroot's infringement of the '194 Patent has been and continues to be willful, deliberate and/or objectively reckless.

80. Finjan is informed and believes that Webroot's infringement of the '194 Patent has injured and continues to injure Finjan in an amount to be proven at trial.

### **SIXTH CAUSE OF ACTION**

#### **(Infringement of the '962 Patent - Webroot)**

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

82. Finjan alleges that Webroot infringes one or more claims of the '962 Patent under 35 U.S.C. § 271(a), literally or under the doctrine of equivalents, by making, using, importing, offering to sell and/or selling client security products and services, including but not limited to, Webroot's Spy Sweeper, AntiVirus with Spy Sweeper and Internet Security Essentials.

83. Finjan alleges that Webroot has actively induced, and continues to induce, the infringement of one or more claims of the '962 Patent under 35 U.S.C. § 271(b), literally or under the doctrine of equivalents, by actively inducing the manufacture, use, offer for sale, sale, and/or import of client security products and services.

84. Finjan is informed and believes that Webroot had knowledge of the '962 Patent on or shortly after the date of its issuance. For example, Webroot has known of the '962 Patent since at least September 1, 2006, when Webroot filed with the United States Patent Office an Information Disclosure Statement during the prosecution of Application No. 11/104,202 citing

the '962 Patent. On September 18, 2006, Webroot filed an Information Disclosure Statement citing the '962 Patent during the prosecution of Application No. 10/956,573.

85. Webroot publishes and distributes user guides, white papers, datasheets and other documents intending that persons including the manufacturers, sellers, resellers, distributors, users and customers engage in direct infringement by their use of Webroot's client security products and services, including but not limited to, Webroot's Spy Sweeper, AntiVirus with Spy Sweeper and Internet Security Essentials.

86. Finjan alleges that Webroot has contributorily infringed and continues to contributorily infringe the '962 Patent under 35 U.S.C. § 271(c), literally or under the doctrine of equivalents, by offering to sell and/or selling within the United States, and/or importing into the United States, a component of a machine, manufacture, combination or composition covered by the '962 Patent, constituting a material part of the invention, which is not a staple article or commodity of commerce suitable for substantial non-infringing use.

87. On information and belief, Webroot knows that the component and/or material and/or apparatus is especially made or especially adapted for use in infringing the '962 Patent by persons, including manufacturers, sellers, resellers, distributors, users and customers of Webroot's client security products and services, including but not limited to, Webroot's Spy Sweeper, AntiVirus with Spy Sweeper and Internet Security Essentials.

88. Webroot'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.

89. Finjan is informed and believes that as a result of Webroot's unlawful activities, Finjan has suffered and will continue to suffer irreparable harm for which there is no adequate

remedy at law. Accordingly, Finjan is entitled to preliminary and/or permanent injunctive relief pursuant to 35 U.S.C. § 283.

90. Finjan is informed and believes that Webroot's infringement of the '962 Patent has been and continues to be willful, deliberate and/or objectively reckless.

91. Finjan is informed and believes that Webroot's infringement of the '962 Patent has injured and continues to injure Finjan in an amount to be proven at trial.

### **SEVENTH CAUSE OF ACTION**

#### **(Infringement of the '194 Patent - Websense)**

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

93. Finjan alleges that Websense infringes one or more claims of the '194 Patent under 35 U.S.C. § 271(a), literally or under the doctrine of equivalents, by making, using, importing, offering to sell and/or selling gateway security products and services, including but not limited to, Websense's Web Filter, Web Security, and Web Security Gateway.

94. Finjan alleges that Websense has actively induced, and continues to induce, the infringement of one or more claims of the '194 Patent under 35 U.S.C. § 271(b), literally or under the doctrine of equivalents, by actively inducing the manufacture, use, offer for sale, sale, and/or import of gateway security products and services.

95. Finjan is informed and believes that Websense had knowledge of the '194 Patent on or shortly after the date of its issuance. For example, Websense has known of the '194 Patent since at least April 5, 2002 when Websense purchased 100 seats for SurfinGate for Web, a product that was marked with the '194 Patent.

96. Websense publishes and distributes deployment guides, user guides, quick start guides, white papers, datasheets and other documents intending that persons including the manufacturers, sellers, resellers, distributors, users and customers engage in direct infringement by their use of Websense's gateway security products and services, including but not limited to, Websense's Web Filter, Web Security, and Web Security Gateway.

97. Finjan alleges that Websense has contributorily infringed and continues to contributorily infringe the '194 Patent under 35 U.S.C. § 271(c), literally or under the doctrine of equivalents, by offering to sell and/or selling within the United States, and/or importing into the United States, a component of a machine, manufacture, combination or composition covered by the '194 Patent, constituting a material part of the invention, which is not a staple article or commodity of commerce suitable for substantial non-infringing use.

98. On information and belief, Websense knows that the component and/or material and/or apparatus is especially made or especially adapted for use in infringing the '194 Patent by persons, including manufacturers, sellers, resellers, distributors, users and customers of Websense's gateway security products and services, including but not limited to, Websense's Web Filter, Web Security, and Web Security Gateway.

99. Websense'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.

100. Finjan is informed and believes that as a result of Websense's unlawful activities, Finjan has suffered and will continue to suffer irreparable harm for which there is no adequate remedy at law. Accordingly, Finjan is entitled to preliminary and/or permanent injunctive relief pursuant to 35 U.S.C. § 283.

101. Finjan is informed and believes that Websense's infringement of the '194 Patent has been and continues to be willful, deliberate and/or objectively reckless.

102. Finjan is informed and believes that Websense's infringement of the '194 Patent has injured and continues to injure Finjan in an amount to be proven at trial.

### **EIGHTH CAUSE OF ACTION**

#### **(Infringement of the '194 Patent - Sophos)**

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

104. Finjan alleges that Sophos infringes one or more claims of the '194 Patent under 35 U.S.C. § 271(a), literally or under the doctrine of equivalents, by making, using, importing, offering to sell and/or selling gateway security products and services, including but not limited to, Sophos' Web Security and Control Web Appliance and Email Security and Control Email Appliance.

105. Finjan alleges that Sophos has actively induced, and continues to induce, the infringement of one or more claims of the '194 Patent under 35 U.S.C. § 271(b), literally or under the doctrine of equivalents, by actively inducing the manufacture, use, offer for sale, sale, and/or import of gateway security products and services.

106. Finjan is informed and believes that Sophos had knowledge of the '194 Patent on or shortly after the date of its issuance. For example, Sophos has known of the '194 Patent since at least June 29, 2004, when Finjan and Sophos entered into an agreement permitting Finjan's Vital Security product to use Sophos' virus detection engine. Sophos' head of strategic alliances is quoted in a press release issued that day stating "[t]he combination of Sophos's reliable virus protection software with Finjan's behavior-inspection technology will

provide customers with the highest level of security against viruses, worms and Trojan horses.” Finjan was marking its Vital Security product with the ‘194 Patent in 2004.

107. Sophos publishes and distributes user manuals, reviewer’s guides, white papers, datasheets and other documents intending that persons including the manufacturers, sellers, resellers, distributors, users and customers engage in direct infringement by their use of Sophos gateway security products and services, including but not limited to, Sophos’ Web Security and Control Web Appliance and Email Security and Control Email Appliance.

108. Finjan alleges that Sophos has contributorily infringed and continues to contributorily infringe the ‘194 Patent under 35 U.S.C. § 271(c), literally or under the doctrine of equivalents, by offering to sell and/or selling within the United States, and/or importing into the United States, a component of a machine, manufacture, combination or composition covered by the ‘194 Patent, constituting a material part of the invention, which is not a staple article or commodity of commerce suitable for substantial non-infringing use.

109. On information and belief, Sophos knows that the component and/or material and/or apparatus is especially made or especially adapted for use in infringing the ‘194 Patent by persons, including manufacturers, sellers, resellers, distributors, users and customers of Sophos’ gateway security products and services, including but not limited to, Sophos’ Web Security and Control Web Appliance and Email Security and Control Email Appliance.

110. Sophos’ 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.

111. Finjan is informed and believes that as a result of Sophos’ unlawful activities, Finjan has suffered and will continue to suffer irreparable harm for which there is no adequate

remedy at law. Accordingly, Finjan is entitled to preliminary and/or permanent injunctive relief pursuant to 35 U.S.C. § 283.

112. Finjan is informed and believes that Sophos' infringement of the '194 Patent has been and continues to be willful, deliberate and/or objectively reckless.

113. Finjan is informed and believes that Sophos' infringement of the '194 Patent has injured and continues to injure Finjan in an amount to be proven at trial.

### **NINTH CAUSE OF ACTION**

#### **(Infringement of the '962 Patent - Sophos)**

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

115. Finjan alleges that Sophos infringes one or more claims of the '962 Patent under 35 U.S.C. § 271(a), literally or under the doctrine of equivalents, by making, using, importing, offering to sell and/or selling client security products and services, including but not limited to, Sophos' Endpoint Security and Data Protection product.

116. Finjan alleges that Sophos has actively induced, and continues to induce, the infringement of one or more claims of the '962 Patent under 35 U.S.C. § 271(b), literally or under the doctrine of equivalents, by actively inducing the manufacture, use, offer for sale, sale, and/or import of client security products and services.

117. Finjan is informed and believes that Sophos had knowledge of the '962 Patent on or shortly after the date of its issuance. For example, Sophos has known of the '962 Patent since at least June 29, 2004, when Finjan and Sophos entered into an agreement permitting Finjan's Vital Security product to use Sophos' virus detection engine. Sophos' head of strategic alliances is quoted in a press release issued that day stating "[t]he combination of

Sophos's reliable virus protection software with Finjan's behavior-inspection technology will provide customers with the highest level of security against viruses, worms and Trojan horses." Finjan was marking its Vital Security product with the '962 Patent in 2004.

118. Sophos publishes and distributes user manuals, reviewer's guides, white papers, datasheets and other documents intending that persons including the manufacturers, sellers, resellers, distributors, users and customers engage in direct infringement by their use of Sophos' client security products and services, including but not limited to, Sophos' Endpoint Security and Data Protection product.

119. Finjan alleges that Sophos has contributorily infringed and continues to contributorily infringe the '962 Patent under 35 U.S.C. § 271(c), literally or under the doctrine of equivalents, by offering to sell and/or selling within the United States, and/or importing into the United States, a component of a machine, manufacture, combination or composition covered by the '962 Patent, constituting a material part of the invention, which is not a staple article or commodity of commerce suitable for substantial non-infringing use.

120. On information and belief, Sophos knows that the component and/or material and/or apparatus is especially made or especially adapted for use in infringing the '962 Patent by persons, including manufacturers, sellers, resellers, distributors, users and customers of Sophos' client security products and services, including but not limited to, Sophos' Endpoint Security and Data Protection product.

121. Sophos' 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.



122. Finjan is informed and believes that as a result of Sophos' unlawful activities, Finjan has suffered and will continue to suffer irreparable harm for which there is no adequate remedy at law. Accordingly, Finjan is entitled to preliminary and/or permanent injunctive relief pursuant to 35 U.S.C. § 283.

123. Finjan is informed and believes that Sophos' infringement of the '962 Patent has been and continues to be willful, deliberate and/or objectively reckless.

124. Finjan is informed and believes that Sophos' infringement of the '962 Patent has injured and continues to injure Finjan in an amount to be proven at trial.

**PRAYER FOR RELIEF**

WHEREFORE, Finjan prays that the Court grant the following relief and judgment:

A. A preliminary and permanent injunction against McAfee and its officers, employees, agents, servants, attorneys, instrumentalities, and/or those in privity with them, from infringing, contributorily infringing, or inducing the infringement of the '194 Patent, and/or the '962 Patent, and for all further and proper injunctive relief pursuant to 35 U.S.C. § 283;

B. An award to Finjan of such damages as it shall prove at trial against McAfee that is adequate to fully compensate Finjan for McAfee's infringement of the '194 Patent and/or the '962 Patent, said damages to be no less than a reasonable royalty;

C. An award to Finjan for McAfee's willful infringement of three times the damages so determined, as provided by 35 U.S.C. § 284, together with postjudgment interest and prejudgment interest from the first date of infringement of the '194 Patent and/or the '962 Patent;

D. A preliminary and permanent injunction against Symantec and its officers, employees, agents, servants, attorneys, instrumentalities, and/or those in privity with them, from infringing, contributorily infringing, or inducing the infringement of the '194 Patent, and/or the '962 Patent, and for all further and proper injunctive relief pursuant to 35 U.S.C. § 283;

E. An award to Finjan of such damages as it shall prove at trial against Symantec that is adequate to fully compensate Finjan for Symantec's infringement of the '194 Patent and/or the '962 Patent, said damages to be no less than a reasonable royalty;

F. An award to Finjan for Symantec's willful infringement of three times the damages so determined, as provided by 35 U.S.C. § 284, together with postjudgment interest and prejudgment interest from the first date of infringement of the '194 Patent and/or the '962 Patent;

G. A preliminary and permanent injunction against Webroot and its officers, employees, agents, servants, attorneys, instrumentalities, and/or those in privity with them, from infringing, contributorily infringing, or inducing the infringement of the '194 Patent, and/or the '962 Patent, and for all further and proper injunctive relief pursuant to 35 U.S.C. § 283;

H. An award to Finjan of such damages as it shall prove at trial against Webroot that is adequate to fully compensate Finjan for Webroot's infringement of the '194 Patent and/or the '962 Patent, said damages to be no less than a reasonable royalty;

I. An award to Finjan for Webroot's willful infringement of three times the damages so determined, as provided by 35 U.S.C. § 284, together with postjudgment interest and

prejudgment interest from the first date of infringement of the '194 Patent and/or the '962 Patent;

J. A preliminary and permanent injunction against Websense and its officers, employees, agents, servants, attorneys, instrumentalities, and/or those in privity with them, from infringing, contributorily infringing, or inducing the infringement of the '194 Patent, and for all further and proper injunctive relief pursuant to 35 U.S.C. § 283;

K. An award to Finjan of such damages as it shall prove at trial against Websense that is adequate to fully compensate Finjan for Websense's infringement of the '194 Patent, said damages to be no less than a reasonable royalty;

L. An award to Finjan for Websense's willful infringement of three times the damages so determined, as provided by 35 U.S.C. § 284, together with postjudgment interest and prejudgment interest from the first date of infringement of the '194 Patent;

M. A preliminary and permanent injunction against Sophos and its officers, employees, agents, servants, attorneys, instrumentalities, and/or those in privity with them, from infringing, contributorily infringing, or inducing the infringement of the '194 Patent, and/or the '962 Patent, and for all further and proper injunctive relief pursuant to 35 U.S.C. § 283;

N. An award to Finjan of such damages as it shall prove at trial against Sophos that adequate to fully compensate Finjan for Sophos' infringement of the '194 Patent and/or the '962 Patent, said damages to be no less than a reasonable royalty;

O. An award to Finjan for Sophos' willful infringement of three times the damages so determined, as provided by 35 U.S.C. § 284, together with postjudgment interest and prejudgment interest from the first date of infringement of the '194 Patent and/or the '962 Patent;

P. A finding that this case is “exceptional” and an award to Finjan of its costs and reasonable attorney’s fees, as provided by 35 U.S.C. § 285;

Q. An accounting of all infringing sales and revenues; and

R. Such further and other relief as the Court and/or jury may deem proper and just.

**DEMAND FOR JURY TRIAL**

Finjan hereby demands a trial by jury on all issues triable by a jury.

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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

**CERTIFICATE OF SERVICE**

I, Philip A. Rovner, hereby certify that, on May 12, 2011, the within document was electronically filed with the Clerk of the Court using CM-ECF which will send notification of such filing to the following; that the document was served on the following counsel as indicated; and the document is available for viewing and downloading from CM-ECF:

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