

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

FINJAN SOFTWARE, LTD., an Israel	)	
corporation,	)	
	)	
Plaintiff,	)	Civil Action No. 06-369-GMS
	)	
v.	)	
	)	
SECURE COMPUTING CORPORATION,	)	<b>DEMAND FOR JURY</b>
a Delaware corporation; CYBERGUARD	)	<b>TRIAL</b>
CORPORATION, a Delaware corporation,	)	
WEBWASHER AG, a German corporation and	)	
DOES 1 THROUGH 100,	)	
	)	
Defendants.	)	

**AMENDED COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff Finjan Software, Ltd. ("Plaintiff" or "Finjan") alleges as follows:

**THE PARTIES**

1. Plaintiff Finjan is a corporation organized and existing under the laws of Israel, with its principal place of business at Hamachshev St. 1, New Industrial Area, Netanya, 42504, Israel.
2. On information and belief, Defendant Secure Computing Corporation ("Secure Computing") is a corporation organized and existing under the laws of the State of Delaware, with its corporate headquarters at 4810 Harwood Road, San Jose, California 95124.
3. On information and belief, Defendant Cyberguard Corporation ("Cyberguard") is a corporation organized and existing under the laws of the State of Delaware and a wholly owned subsidiary of Secure Computing, with its corporate headquarters at 4810 Harwood Road, San Jose, California 95124.

4. On information and belief, Defendant Webwasher AG ("Webwasher") is a corporation organized and existing under the laws of Germany and a wholly owned subsidiary of Cyberguard, with a branch office at 5201 Great America Parkway, Suite 432, Santa Clara, CA 95054.

**JURISDICTION AND VENUE**

5. This action arises under the Patent Act, 35 U.S.C. §271 *et seq.* This Court has original jurisdiction over this controversy pursuant to 28 U.S.C. §§1331 and 1338.

6. 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 and § 3104 of the Delaware Code because defendants are Delaware corporations and/or have and continue to infringe, contributorily infringe and/or induce the infringement of U.S. Patent No. 6,092,194, U.S. Patent No. 6,804,780 and U.S. Patent No. 7,058,822 in this district.

**PLAINTIFF'S PATENT**

7. 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. Finjan was assigned all ownership rights to the '194 Patent. A true and correct copy of the '194 Patent is attached to this complaint as Exhibit A and is incorporated by reference herein.

8. On October 12, 2004, United States Patent No. 6,804,780 ("the '780 Patent"), entitled SYSTEM AND METHOD FOR PROTECTING A COMPUTER AND A NETWORK FROM HOSTILE DOWNLOADABLES, was issued to Shlomo Touboul. Finjan was assigned all

ownership rights to the '780 Patent. A true and correct copy of the '780 Patent is attached to this complaint as Exhibit B and is incorporated by reference herein.

9. On June 6, 2006, United States Patent No. 7,058,822 ("the '822 Patent"), entitled MALICIOUS MOBILE CODE RUNTIME MONITORING SYSTEM AND METHODS, was issued to Yigal Mordechai Edery, Nimrod Itzhak Vered and David R. Kroll. Finjan was assigned all ownership rights to the '822 Patent. A true and correct copy of the '822 Patent is attached to this complaint as Exhibit C and is incorporated by reference herein.

10. The '194 Patent, '780 Patent and '822 Patent are directed to a system and method for protecting networks and computers from hostile downloadable executable application programs.

#### **PATENT INFRINGEMENT**

11. On information and belief, defendant Secure Computing is in the business of developing and distributing network and systems security solutions to organizations. Secure Computing has and continues to infringe the '194 Patent, '780 Patent and '822 Patent by making, using, selling, distributing, advertising and marketing products, including but not limited to the Webwasher Secure Content Management ("SCM") suite, that infringe the '194 Patent, '780 Patent and '822 Patent.

12. On information and belief, defendant Cyberguard is in the business of developing and distributing information security solutions. Cyberguard has and continues to infringe the '194 Patent, '780 Patent and '822 Patent by making, using, selling, distributing, advertising and marketing products, including but not limited to the Webwasher Secure Content Management ("SCM") suite, that infringe the '194 Patent, '780 Patent and '822 Patent.

13. On information and belief, defendant Webwasher is in the business of developing and distributing Internet and email content security and filtering solutions. Webwasher has and

continues to infringe the '194 Patent, '780 Patent and '822 Patent by making, using, selling, distributing, advertising and marketing products, including but not limited to the Webwasher Secure Content Management ("SCM") suite, that infringe the '194 Patent, '780 Patent and '822 Patent.

**FIRST CAUSE OF ACTION**

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

14. Finjan realleges each and every allegation set forth in Paragraphs 1 through 13, inclusive, and incorporates them herein by reference.

15. Defendants Secure Computing, Cyberguard and Webwasher have been and continue to infringe, contributorily infringe, and/or induce the infringement of the '194 Patent by making, using, selling and/or offering to sell products which infringe the '194 Patent, including but not limited to the Webwasher SCM suite, and will continue to do so until enjoined by this Court.

16. Defendants' infringement of the '194 Patent has been and continues to be willful and deliberate.

17. Defendants' 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 '780 Patent)**

18. Finjan realleges each and every allegation set forth in Paragraphs 1 through 17, inclusive, and incorporates them herein by reference.

19. Defendants Secure Computing, Cyberguard and Webwasher have been and continue to infringe, contributorily infringe, and/or induce the infringement of the '780 Patent by making, using, selling and/or offering to sell products which infringe the '780 Patent, including but not limited to the Webwasher SCM suite, and will continue to do so until enjoined by this Court.

20. Defendants' infringement of the '780 Patent has been and continues to be willful and deliberate.

21. Defendants' infringement of the '780 Patent has injured and continues to injure Finjan in an amount to be proven at trial.

**THIRD CAUSE OF ACTION**

**(Infringement of the '822 Patent)**

22. Finjan realleges each and every allegation set forth in Paragraphs 1 through 21, inclusive, and incorporates them herein by reference.

23. Defendants Secure Computing, Cyberguard and Webwasher have been and continue to infringe, contributorily infringe, and/or induce the infringement of the '822 Patent by making, using, selling and/or offering to sell products which infringe the '822 Patent, including but not limited to the Webwasher SCM suite, and will continue to do so until enjoined by this Court.

24. Defendants' infringement of the '822 Patent has been and continues to be willful and deliberate.

25. Defendants' infringement of the '822 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 Defendants Secure Computing, Cyberguard and Webwasher and its respective 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, '780 Patent and '822 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 Defendants Secure Computing, Cyberguard and Webwasher, that are adequate to fully compensate it for their infringement of the '194 Patent, '780 Patent and '822 Patent, said damages to be no less than a reasonable royalty;

C. An award to Finjan for willful infringement against Defendants Secure Computing, Cyberguard and Webwasher of three times the damages so determined, as provided by 35 U.S.C. §284, together with prejudgment interest from the date infringement of the '194 Patent, '780 Patent and/or '822 Patent began;

D. 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;

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

**DEMAND FOR JURY TRIAL**

Plaintiff Finjan Software, Ltd. hereby demands a trial by jury on all issues triable by a jury.

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Dated: April 5, 2007  
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**IN THE UNITED STATES DISTRICT COURT  
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**CERTIFICATE OF SERVICE**

I, Philip A. Rovner, hereby certify that on April 10, 2007, the within document was filed with the Clerk of the Court using CM/ECF which will send notification of such filing(s) to the following; that the document was served on the following counsel as indicated; and that the document is available for viewing and downloading from CM/ECF.

**BY HAND DELIVERY**

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I hereby certify that on April 10, 2007 I have sent by Federal Express the foregoing document to the following non-registered participants:

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