

FILED

9/11/2023

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY s/L. Hernandez DEPUTY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FINJAN, INC.,

Plaintiff,

v.

ESET, LLC and ESET SPOL. S.R.O.,

Defendants.

Case No.: 17-CV-183-CAB-BGS

VERDICT FORM

We, the jury in the above-entitled action, find the following verdict on the questions submitted to us:

QUESTION 1 – INFRINGEMENT

- Did Finjan prove by a preponderance of the evidence that the following ESET LLC or ESET Spol products or services infringe any of the asserted claims (please check either yes or no for each claim as to each listed product or service)

| Product/Service | '844 Patent Claim 1 | Yes | No |
|-------------------------------|---------------------|-----|----|
| ESET Gateway Security Product | | | ✓ |
| ESET Server Products | | | ✓ |
| Product/Service | '844 Patent Claim 7 | Yes | No |
| ESET Gateway Security Product | | | ✓ |
| ESET Server Products | | | ✓ |

| Product/Service | '844 Patent Claim 15 | Yes | No |
|-------------------------------------|----------------------|-----|----|
| ESET Gateway Security Product | | | ✓ |
| ESET Server Products | | | ✓ |
| The Cloud Malware Protection System | | | ✓ |
| The LiveGrid Feedback System | | | ✓ |
| The LiveGrid Reputation System | | | ✓ |
| Product/Service | '780 Patent Claim 9 | Yes | No |
| ESET Gateway Security Product | | | ✓ |
| ESET Server Products | | | ✓ |
| ESET Endpoint Products | | | ✓ |
| The Cloud Malware Protection System | | | ✓ |
| The LiveGrid Feedback System | | | ✓ |
| The LiveGrid Reputation System | | | ✓ |
| Product/Service | '780 Patent Claim 13 | Yes | No |
| ESET Gateway Security Product | | | ✓ |
| ESET Server Products | | | ✓ |
| ESET Endpoint Products | | | ✓ |
| The Cloud Malware Protection System | | | ✓ |
| The LiveGrid Feedback System | | | ✓ |
| The LiveGrid Reputation System | | | ✓ |
| Product/Service | '086 Patent Claim 24 | Yes | No |
| ESET Gateway Security Product | | | ✓ |
| ESET Server Products | | | ✓ |
| ESET Endpoint Products | | | ✓ |
| The Cloud Malware Protection System | | | ✓ |
| The LiveGrid Feedback System | | | ✓ |
| The LiveGrid Reputation System | | | ✓ |

QUESTION 2 – INVALIDITY ANTICIPATION

Did the ESET entities prove by clear and convincing evidence that any of the claims of the '844, '780, and '086 patents are **invalid as anticipated by the prior art**? (Please check yes or no).

| Prior Art | '844 Patent Claim 1 | Yes | No |
|------------------------------------|----------------------|-----|----|
| U.S. Patent No. 5,983,348 to Ji | | | ✓ |
| Prior Art | '844 Patent Claim 7 | Yes | No |
| U.S. Patent No. 5,983,348 to Ji | | | ✓ |
| Prior Art | '844 Patent Claim 15 | Yes | No |
| U.S. Patent No. 5,983,348 to Ji | | | ✓ |
| Prior Art | '780 Patent Claim 9 | Yes | No |
| U.S. Patent No. 6,157,721 to Shear | | | ✓ |
| Prior Art | '780 Patent Claim 13 | Yes | No |
| U.S. Patent No. 6,157,721 to Shear | | | ✓ |

QUESTION 3 – INVALIDITY OBVIOUSNESS

Did the ESET Entities prove by clear and convincing evidence that any of the claims of the '844, '780, and '086 patents are **invalid as obvious in view of the prior art?** (Please check yes or no).

| | | | |
|------------------------------------|----------------------|-----|----|
| Prior Art | '844 Patent Claim 1 | Yes | No |
| ThunderByte and MIMESweeper | | | ✓ |
| Prior Art | '844 Patent Claim 7 | Yes | No |
| ThunderByte and MIMESweeper | | | ✓ |
| Prior Art | '844 Patent Claim 15 | Yes | No |
| ThunderByte and MIMESweeper | | | ✓ |
| Prior Art | '780 Patent Claim 9 | Yes | No |
| U.S. Patent No. 6,157,721 to Shear | | | ✓ |
| Prior Art | '780 Patent Claim 13 | Yes | No |
| U.S. Patent No. 6,157,721 to Shear | | | ✓ |
| Prior Art | '086 Patent Claim 24 | Yes | No |
| NOD iCE and MIMESweeper | | | ✓ |
| ThunderByte and MIMESweeper | | | ✓ |

QUESTION 4 – INVALIDITY INVENTORSHIP

Did the ESET Entities prove by clear and convincing evidence that Claim 24 of the '086 patent is **invalid because of improper inventorship**? (Please check yes or no).

'086 Patent

Claim 24

Yes _____

No _____

QUESTION 5 – PATENT INELIGIBILITY

Did the ESET Entities prove by clear and convincing evidence that Claims 9 and 13 of the '780 patent are **invalid because they do not claim patentable subject matter**? (Please check yes or no).

'780 Patent

Claim 9

Yes _____

No _____

QUESTION 6 – LICENSE

Did the ESET Entities prove by a preponderance of the evidence that it is covered as a third party under the Microsoft License Agreement to practice the '780 and the '086 patents? (Please check yes or no).

Yes _____

No _____

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