

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

FORM 10-K

Mark One)

ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For Fiscal Year Ended: December 31, 2019

OR

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from \_\_\_\_\_ to \_\_\_\_\_

Commission file number: 001-33304



**FINJAN HOLDINGS, INC.**

(Exact name of registrant as specified in its charter)

Delaware

(State or other jurisdiction of  
incorporation or organization)

2000 University Avenue, Suite 600, East Palo Alto, CA

(Address of principal executive offices)

20-4075963

(I.R.S. Employer  
Identification No.)

94303

(Zip Code)

Registrant's telephone number, including area code: 650-282-3228

Securities registered pursuant to Section 12(b) of the Act: Common Stock, par value \$0.0001 per share

Securities registered pursuant to Section 12(g) of the Act: None

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes  No

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or 15(d) of the Exchange Act. Yes  No

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes  No

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). Yes  No

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K (§229.405 of this chapter) is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K.

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, smaller reporting company, or an emerging growth company. See the definitions of the "large accelerated filer," "accelerated filer," "non-accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer	<input type="checkbox"/>	Accelerated filer	<input type="checkbox"/>
Non-accelerated filer	<input type="checkbox"/>	Smaller reporting company	<input type="checkbox"/>
		Emerging growth company	<input type="checkbox"/>

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes  No

As of June 30, 2019, there were 27,610,520 shares of the registrant's common stock, par value \$0.0001 per share, issued and outstanding. Of these, 21,390,164 shares were held by non-affiliates of the registrant. The market value of securities held by non-affiliates was \$47,486,164 as of June 30, 2019, based on the closing price of \$2.22 for the registrant's common stock on June 30, 2019.

As of March 2, 2020, there were 27,685,554 shares of the registrant's common stock, par value \$0.0001 per share, issued and outstanding.

**DOCUMENTS INCORPORATED BY REFERENCE:**

Portions of Finjan Holdings, Inc.'s Proxy Statement in connection with its Annual Meeting of Stockholders to be held in 2019 are incorporated by reference into Part III of this report.

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## CAUTIONARY STATEMENT REGARDING FORWARD-LOOKING STATEMENTS

The following discussion includes forward-looking statements about the Company's business, financial condition and results of operations, including discussions about management's expectations for the business. These statements include statements regarding our expectations, intentions, beliefs and projections about our future results, performance, prospects and opportunities. These statements can be identified by the fact that they do not relate strictly to historical or current facts or by the use of words such as "anticipate," "believe," "could," "estimate," "expect," "intend," "may," "plan," "project," "potential," "should," "will," "will be," "would," and the negative of these terms and similar expressions, but this is not an exclusive way of identifying such statements. Readers are cautioned that forward-looking statements are not guarantees of future performance. Our actual results, performance and achievements may differ materially from those expressed in, or implied by, the forward-looking statements contained in this report as a result of various risks, uncertainties and other factors. Important factors that could cause our actual results to differ materially from our expectations include, without limitation, our ability to execute our business plan, the outcome of pending or future enforcement actions, our ability to expand our technology portfolio, the enforceability of our patents, our ability to raise additional capital on acceptable terms, our ability to continue to meet listing requirements of the NASDAQ Capital Market, the continued use of our technologies in the market, the development or continuation of a liquid trading market for our securities, regulatory developments and other factors described under Item 1A. "Risk Factors," as set forth in this Annual Report on Form 10-K, and any subsequent quarterly or current reports. The following discussion should also be read in conjunction with the audited and unaudited consolidated financial statements and notes thereto as set forth in this Annual Report on Form 10-K, and in any subsequent quarterly or current reports.

The Company will continue to file annual, quarterly and current reports, proxy statements and other information with the Securities and Exchange Commission (the "SEC"). Forward-looking statements speak only as of the dates specified in such filings. Except as expressly required under federal securities laws and the rules and regulations of the SEC, we do not undertake any obligation to update any forward-looking statements to reflect events or circumstances arising after any such date, whether as a result of new information or future events or otherwise. You should not place undue reliance on the forward-looking statements included in this report or that may be made elsewhere from time to time by us, or on our behalf. All forward-looking statements attributable to us are expressly qualified by these cautionary statements.

## PART I

### ITEM 1. BUSINESS.

#### Overview

Finjan Holdings, Inc. (the "Company" or "Finjan Holdings") is a pioneer in cybersecurity focused in three business lines; intellectual property licensing and enforcement, mobile security application development, and investing in cybersecurity technologies and intellectual property. Licensing and enforcement of the Company's cybersecurity patent portfolio is operated by its wholly-owned subsidiaries Finjan, Inc. ("Finjan") and Finjan Blue, Inc. ("Finjan Blue"). The Company's mobile security business is operated through its wholly-owned subsidiary Finjan Mobile, Inc. ("Finjan Mobile").

Finjan Holdings was incorporated in Delaware in January of 2006, with Finjan becoming a wholly owned subsidiary of Finjan Holdings in June of 2013 after a merger transaction resulting in the public trading of our common stock. Our common stock has been trading on the NASDAQ Capital Market ("NASDAQ") since May 2014.

Founded in 1997, Finjan developed software and hardware-based web and network security technologies capable of detecting previously unknown and emerging threats on a real-time, behavior-based, basis, in contrast to signature-based methods of intercepting only known threats to computers. The older, signature-based methods were standard in the web and network security industry during the 1990s. Finjan invested heavily in research and development of its technologies as well as in protecting its innovations by securing patents covering them. As the web and endpoint security industries - known as cybersecurity - have transitioned to behavior-based detection of malicious code, we believe that our patented technologies continue to be widely used, without license, by third parties in a number of market segments.

During the years ended December 31, 2019, 2018 and 2017, we generated revenue from our cybersecurity business of approximately \$13.2 million, \$82.3 million and \$50.5 million, respectively.

During the year ended December 31, 2019, our net loss was approximately \$16.5 million, and during the years ended December 31, 2018 and 2017 our net income was approximately \$20.7 million and \$22.8 million, respectively.

As used in this Annual Report, references to the "Company," "we," "us," and "our" are used to refer collectively to Finjan Holdings, Inc. and its subsidiaries, unless otherwise indicated or the context requires.

#### *Finjan Holdings Corporate Operating History*

Finjan was founded in 1997 as a wholly-owned subsidiary of Finjan Software Ltd ("FSL"), an Israeli corporation, to cultivate proprietary technologies that focused on proactively detecting threats to web and network traffic by identifying patterns and behavior of web and network viruses and other malicious code, rather than relying on lists of threats known within the web and network security industry. These technologies proactively scan and repel the latest, and often unknown, threats to network, web, and endpoint devices on a real-time basis. Following the development of its patented technologies, FSL, together with its subsidiaries, provided secure web gateway solutions, including software and hardware, to the enterprise and endpoint markets both directly and through technology partners and original equipment manufacturers ("OEMs").

In 2002, FSL engaged in a reorganization in which Finjan Software, Inc. ("FSI"), a Delaware corporation, was formed to acquire and hold all of the capital stock of Finjan. Between 2002 and 2009, FSI focused its efforts on research and development and sales and marketing activities in an effort to bolster its position in the security industry and enhance its platform of web and network inspection technologies. Throughout that time period, FSI's activities were funded primarily by venture capital and private equity firms with experience providing capital and management expertise to software security firms, some with investment and operational experience within Israel's cybersecurity and technology sectors. Finjan also received financial backing from multi-national software and technology companies.

Between approximately 2002 and 2006, competitors in the web and network security industry began moving towards real-time, behavior-based, proactive threat detection, at times in violation of Finjan's patent rights. As a result, and beginning in 2005, Finjan commenced its licensing program around its patents. The first license, issued in 2005, was to Microsoft. In 2006, Finjan also initiated its first patent infringement litigation against a party it believed was infringing its patents.

In October 2009, FSI transferred its portfolio of intellectual property to Finjan (its wholly-owned subsidiary at the time). In November 2009, FSI sold certain assets, including certain of its operating subsidiaries (not including Finjan), and its sales and marketing assets to M86 Security ("M86"). Finjan also granted a fully-paid, non-exclusive patent license to M86, in consideration for which M86 issued shares of its common stock to Finjan and FSI. In connection with that transaction, and subsequent to November 2009, FSI and its remaining subsidiaries (including Finjan) ceased the development, manufacture, marketing and sale of its products, as well as research conducted through its Malicious Code Research Center as part of a confidential non-compete provision. Finjan retained ownership of its patents and all related rights. In March 2012, M86 merged with Trustwave Holdings, Inc. ("Trustwave") through which M86's license from Finjan was renewed with Trustwave to include an expanded scope and an extension of the aforementioned non-compete for the development of software and hardware security products. In September 2015, Trustwave was acquired by Singapore Telecom ("SingTel").

Following the M86 and related transactions, and during an intervening period between 2009 and 2013, Finjan's existing investors financed its activities, which consisted primarily of enforcing its intellectual property in the security sector while the non-compete provision with M86 and Trustwave was in place.

In April 2013, Finjan distributed all securities it held in two unaffiliated entities to FSI and made a payment of cash in an amount sufficient to repay and satisfy in full a pre-existing intercompany loan from FSI to Finjan. Following that distribution, the board of directors and stockholders of FSI approved the dissolution of, and a plan of liquidation for FSI that resulted in, among other things, the distribution of Finjan common stock to certain of FSI's stockholders.

In June 2013, we became publicly traded company and renamed the company Finjan Holdings, Inc. Finjan Holdings was capitalized with more than \$30 million from Finjan's shareholders who, at the time of the listing on NASDAQ, owned approximately 91.5% of the Company's public equity. Finjan's shareholders outlined a vision as a public company to continue the licensing and enforcement of Finjan's patented technologies as well as continuing to invest in new cybersecurity technologies and services.

In November 2013, Finjan Holdings made a commitment to invest in an innovation fund focused on new cybersecurity technologies. The Company committed \$5 million as a strategic limited partner to a fund managed by Jerusalem Venture Partners ("JVP"). JVP's newly created Cyber Strategic Partners Fund VII was co-invested by the Company and three other multi-national companies. In June 2015, the Company received \$1.3 million in distribution from JVP. In December 2019, the Company sold its investment interest in JVP.

In March 2015, the non-compete and confidentiality provisions related to the M86 and Trustwave transactions expired. Within three months, the Company announced it was entering mobile security application development and launching an advisory services business. Today the Company operates its mobile security business through its subsidiary Finjan Mobile. The company closed its advisory services, CybeRisk in 2018.

In August 2017, Finjan Holdings formed Finjan Blue to support development and licensing efforts relating to the IBM Security Patents obtained by Finjan Blue through the Patent Assignment and Support Agreement with IBM. The Agreement, includes pathways for Finjan and IBM to consider development efforts in the future and provides for the sharing of pertinent institutional knowledge and resources by IBM to Finjan Blue. The relationship with IBM was further expanded on May 15, 2018 with a second Patent Assignment and Support Agreement.

#### ***Licensing and Enforcement – Licensing Best Practices***

Under U.S. patent law, a patent owner has the right to exclude others from making, selling or using the owner's patented technology without a license to do so. Through Finjan, we generate revenues and related cash flows by granting intellectual property licenses for the use of patented technologies that we own. We actively license and enforce our patent rights against unauthorized use of our patented technologies (*i.e.* potential infringers). Many of our license agreements, whether entered into via negotiated transactions (*i.e.* licensing transactions) or through a settlement or court ordered judgment (*i.e.* litigation action) or otherwise, are structured on a fully paid-up basis (often referred to as a "global peace license"). For such licenses, we generally agree to a lump sum license fee to be paid upon entering into the license or in accordance with a mutually agreed installment schedule. Some of our license agreements, however, provide for future royalty payments in the event the licensee achieves certain milestones specified in the applicable license agreement. Our license agreements largely contemplate recovery of fees for sales made prior to the effective date of the license, as well as for future sales through a defined termination date, in an amount related to the royalties we would have received had a license been in effect at the time of such sales.

How we conduct our licensing programs and enforcement actions is generally guided by our "Licensing Best Practices," which we adopted in March 2014 to demonstrate our commitment to ethical, transparent and consistent business practices for

intellectual property ("IP") licensing. These Licensing Best Practices are based on the Company's core values. In an effort to encourage meaningful discussion and drive real change in the licensing practices of entities that license (and may or may not directly manufacture or sell products) their respective patent portfolios, we called upon the IP industry to adopt similar initiatives that support technological advancements, investments in innovation and continued job creation, while preserving a strong patent system. We continue to be involved in industry efforts in this area, we regularly receive feedback on our Licensing Best Practices, and we remain open to modifying our position based on potential adoption by broader industry groups.

Our Licensing Best Practices include seven actionable elements:

- Ensure focused licensing and enforcement programs pursue the provider of the patented technology and not its customers, consumers or end users.
- Conduct reasonable diligence to determine a patent's enforceability and use with respect to prospective licensees and make that information available to them.
- Respect procedural rights and judicial efficiency in the courts and in the prosecution and protection of IP behind the innovation.
- Be transparent with the intent in each discussion and articulate the cause and effect scenarios which would prompt a shift in communication and an escalation of each discussion.
- Provide useful facts to prospective licensees and defendants to foster productive business discussions early and often to aid in informed decision-making.
- Offer fair value licenses or settlements based on legitimate factors and considerations.
- Commit to keeping lines of communications open between the patent owner and prospective licensee to preserve a path for the parties to find an amicable solution or resolution for their respective businesses.

In some cases, notwithstanding our pursuit of negotiated license transactions based on our Licensing Best Practices, unlicensed users of our technologies may be unwilling, at least initially, to negotiate or pay reasonable royalties for their use (*i.e.* infringement) of our patented technologies and often dispute any allegations of patent infringement. If we believe a party is infringing one or more of our patents and such party refuses to take a license, we may institute legal action against such party. In a patent infringement lawsuit, we typically seek damages for past infringement and an injunction against future infringement. We evaluate, on a case-by-case basis, whether to commence litigation to preserve our patent rights, the value of our portfolio and the value of the licenses to our existing licensees. Even if litigation is commenced, however, we endeavor to keep the option for early resolution of the dispute between the parties available to the extent practicable.

#### ***Licensing and Enforcement – Legacy Activities, Prior to 2013***

On June 24, 2005, Finjan's then parent, FSL, entered into a patent license agreement with Microsoft Corporation for \$8 million in cash as well as other valuable financial and non-financial consideration. The license grant includes, among other things, a worldwide, non-exclusive, nontransferable royalty-free license for Microsoft and its affiliates to make, have made, use, sell, offer for sale, import and distribute licensed products, among other rights.

In June 2006, Finjan, as successor to its parent FSI, filed a patent infringement lawsuit against Secure Computing Corp. ("Secure") and its subsidiaries in the United States District Court for the District of Delaware, resulting in a judgment of approximately \$37.3 million, including interest and enhancements. In September 2011, Finjan received proceeds of approximately \$28.0 million, net of \$9.3 million contingency legal fees, from Secure including \$3.1 million of interest, in satisfaction of the judgment. In July 2010, Finjan filed a patent infringement lawsuit against five additional software and technology companies in the U.S. District Court of Delaware, which we refer to as the "2010 Litigation." In April 2012, Finjan entered into a binding memorandum of understanding with one of the parties to the 2010 Litigation pursuant to which Finjan agreed to withdraw its claims against such party and grant it a license to use Finjan's patents in exchange for equity in such party and other consideration. The license is fully paid up unless the holder of the license has aggregate annual net sales to third-party distributors or re-sellers in excess of \$10 million (which has not been achieved to date). In addition, Finjan signed a confidential settlement, release and license agreement with another party to the 2010 Litigation in November 2012. Pursuant to such agreement, Finjan received \$85 million in exchange for a one-time fully paid-up license, comprising a perpetual, non-exclusive worldwide license to Finjan's patent portfolio as of the date of such agreement and patents with a first effective

priority date occurring at any time prior to November 2022 that Finjan or its affiliates may own or control after the date of such agreement.

***Licensing and Enforcement – Current Activities, Post 2013***

Since completing the merger in June 2013, we have commenced preliminary discussions with numerous potential licensees and have filed a number of patent infringement lawsuits in the Northern District of California, where such lawsuits were warranted. In each case, we endeavor to adhere to our high standards and stated Licensing Best Practices. For additional information regarding pending litigation, see “Item 3. Legal Proceedings.”

During 2014, Finjan entered into a license agreement:

- With a confidential third party against whom Finjan had filed a patent infringement lawsuit in the Northern District of California, in settlement of such suit. Pursuant to this agreement, the parties mutually agreed to dismiss the infringement litigation, and each party gave the other a general release for all claims that it might have against the other, known or unknown, based on the actions of either party on or before the date of the settlement. Under the license agreement, the third party paid Finjan a license fee of \$8 million in cash.

During 2015, Finjan entered into three license agreements:

- A Confidential Asset Purchase and Patent License Agreement, with F-Secure Corporation, a company incorporated in Finland (“F-Secure”). In the agreement F-Secure assigned to Finjan two patents, U.S. Patent Nos. 8,474,048 and 7,769,991, including among other things, all progeny applications or patents, foreign counterparts and reissues (the “F-Secure Patents”) and paid Finjan a license fee of \$1.0 million in cash.
- A license agreement with Avast Software s.r.o., a company organized under the laws of the Czech Republic (“Avast”) entered into a Confidential Patent License, Settlement and Release Agreement, under which Avast licenses from Finjan a worldwide, fully-paid up, non-exclusive, perpetual, irrevocable license under the identified Finjan patents and related patent rights to use, make, have made, sell, offer to sell, import, export, and/or otherwise distribute Avast covered products through multiple tiers of distribution. In consideration of the agreement, Avast paid Finjan \$2.975 million in cash.
- A Confidential Patent License, Settlement and Release Agreement with a network security company (“Licensee”) under which Licensee received from Finjan a worldwide, non-exclusive, irrevocable license under the identified Finjan patents and related patent rights to use, make, have made, sell, offer to sell, import and otherwise dispose of any and all Licensee products or services, alone or in combination with other Licensee products and services. In consideration for the license, Licensee paid Finjan \$3.65 million in cash.

During 2016, Finjan entered into three license agreements:

- A Confidential Patent License, Settlement and Release Agreement (“June 2016 License”) with Proofpoint, Inc. (“Proofpoint”) and Armorize Technologies, Inc. In consideration of the June 2016 License, Proofpoint paid Finjan \$10.9 million in cash. Certain portions of the June 2016 License are subject to Confidential Treatment pursuant to a Confidential Treatment request filed with the Securities and Exchange Commission (“SEC”).
- A Confidential Patent License Agreement (the “June 30, 2016 License”) with a European cloud-based network security firm (the “2016 European Licensee”). In consideration of the June 30, 2016 License, the European Licensee paid Finjan \$565,000 in cash.
- A Confidential Patent License Agreement (the “December 2016 License”) with F5 Networks, Inc. (“F5”). Pursuant to the December 2016 License, F5 paid a license of \$4.0 million in cash. In exchange for the foregoing and other valuable consideration, Finjan agreed to, subject to certain restrictions, limits and other conditions, grant F5 a nonexclusive, irrevocable, worldwide paid-up license under Finjan’s patents as specified in the December 2016 License.

During 2017, Finjan entered into five license agreements:

- A Confidential Patent License Agreement (the “Veracode Agreement”) with Veracode, Inc., a Delaware corporation (“Veracode”). Pursuant to the Veracode Agreement, Veracode obtained a license to the Finjan patent portfolio and paid a license fee of \$2.0 million in cash. Such license does not grant Veracode any right to transfer, sublicense or

grant any rights under the Veracode Agreement to a third party except as specifically provided under the Veracode Agreement. Such license also has certain provisions relating to certain unlicensed products of any company that acquires Veracode, or is acquired by Veracode or its affiliates, in which case additional license fees may apply. The specific terms of the Veracode Agreement are confidential.

- Subsequent to the Avast license agreement entered into during 2015, in March 2017, Finjan and Avast entered into an amendment to the license agreement whereupon Finjan dismissed its breach of contract and patent infringement claims against Avast and AVG with prejudice. Pursuant to the amendment, Avast paid Finjan \$7.745 million in cash.
- A Confidential Agreement with Sophos and certain of its affiliated companies providing for full releases by the parties and covenant not to sue and a Confidential Patent License Agreement between Finjan and Sophos Limited where Sophos Limited and its affiliates obtained a fully paid up license to the Finjan patent portfolio for a license fee of \$15.0 million in cash. Additionally, Finjan Mobile entered into a Confidential Patent Cross License Agreement with Sophos Limited pursuant to which the parties granted patent cross licenses in which Sophos paid Finjan Mobile \$2.5 million in cash.
- A Confidential Patent License Agreement (the “EU Agreement”) with a European corporation (“EU Licensee”). Pursuant to the EU Agreement, EU Licensee obtained a license to our patent portfolio and paid Finjan \$4.9 million cash. Such license also has certain provisions relating to certain unlicensed products of any company that acquires EU Licensee, or is acquired by EU Licensee or its affiliates, in which case additional license fees may apply. The specific terms of the EU Agreement are confidential.
- A Confidential Patent License and Settlement Agreement (the “Finjan License”) with FireEye, Inc. whereby the companies resolved all pending litigation matters and together with a contemporaneous license agreement from FireEye to Finjan and its affiliates (the “FireEye License” and collectively with the Finjan License, the “Agreements”), the parties granted each other cross-licenses going forward. Under the terms of the Finjan License, FireEye agreed to pay Finjan \$17.5 million in license fees, detailed as follows: (a) \$12.5 million in cash, and (b) \$5.0 million offset by \$5 million in license fees from Finjan to FireEye under the FireEye License, granting a perpetual license for the use of FireEye's patents. The FireEye License was determined not to be an intangible asset since it had no defined future benefit. Therefore, the FireEye License was expensed under SG&A.

During 2018, Finjan entered into three license agreements:

- Finjan and collectively with the Company and its affiliated companies, (the “Finjan Parties”), announced that the Finjan Parties and the Symantec Corporation (“Symantec”) and its subsidiary, Blue Coat Systems, LLC (“Blue Coat”) (collectively, the “Symantec Parties”) entered into a Confidential Patent License and Settlement Agreement (the “License and Settlement Agreement”) effective February 28, 2018. Specifically, the parties have resolved and settled all claims between them. As part of the settlement, the Symantec Parties obtained a license to, among others, the Finjan patents and paid the Finjan Parties \$65.0 million in cash. Further, if Symantec acquires certain entities within four years from February 28, 2018, the Symantec Parties will pay additional license fees of up to \$45.0 million to the Finjan Parties, unless otherwise mutually agreed to by the Company and Symantec. The remaining terms of the License and Settlement Agreement are confidential.
- A Confidential Patent License and Settlement Agreement (the “2018 Finjan License”) with Carbon Black, Inc., a Delaware corporation (“Carbon Black”), whereby the companies have resolved all pending litigation matters. In addition, Finjan Mobile, a wholly-owned subsidiary of the Company and Carbon Black have entered into a separate Confidential Patent Cross License Agreement (the “Cross License”), which serves to ensure the parties’ freedom to operate under the other’s patent portfolio. The terms of each agreement are confidential. Under the terms of the 2018 Finjan License, Carbon Black paid Finjan \$3.9 million in license fees. Further, upon acquisition of Carbon Black or acquisitions by Carbon Black, additional one-time license fees will be due to Finjan equal to eight percent (8%) of the gross revenues of certain qualifying products and services for the four (4) concluded quarters immediately preceding the acquisition.
- A Confidential Patent License Agreement (the “June 2018 License Agreement”) with Trend Micro Incorporated (K.K.), a Japanese corporation (“Trend Micro Japan”) and Trend Micro, Inc., a California corporation (“Trend Micro U.S. and collectively with Trend Micro Japan, the “Trend Micro Parties”). The June 2018 License Agreement provides that the Trend Micro Parties obtained a license to, among others, the Finjan patents and paid the Finjan parties \$13.4 million in cash. Further, upon acquisition by the Trend Micro Parties of certain entities, the Trend Micro Parties will pay additional license fees to Finjan, unless otherwise mutually agreed to by the Company and the Trend Micro

Parties. Further, the June 2018 License Agreement has additional provisions relating to certain unlicensed products of any company that acquires a Trend Micro Party, in which case additional license fees may apply. The parties also entered into related agreements with respect to their respective patents, including the transfer of 18 select issued security-related patent assets from the Trend Micro Parties to the Finjan Parties. In accordance with ASC-845-10-30, the Company determined that the acquired assets are non-monetary with no defined future benefit, resulting in the conclusion that they are not assets. The remaining terms of the June 2018 License Agreement are confidential.

During 2019, Finjan entered into two license agreements:

- The Company entered into a Confidential Patent License Agreement (collectively, the “Mimecast License Agreements”) with Mimecast Limited (“Mimecast”). In addition, to achieve global patent peace between the companies, the Company and Mimecast and Mimecast North America, Inc. have entered into mutual covenants not to sue for a certain number of years, among other terms (the “Letter Agreement”). As part of the Mimecast License Agreements, Mimecast and its licensed affiliates (the “Mimecast Parties”) obtained a license to, among others, the patents of Finjan, Finjan Mobile, and Finjan Blue, and paid Finjan \$5.9 million in cash. The remaining terms of the Mimecast License Agreements and the Letter Agreement are confidential.
- The Company and Zscaler, Inc. (“Zscaler”) entered into a Confidential Patent License and Settlement Agreement (the “License and Settlement Agreement”). Specifically, the parties have resolved and settled all claims between them. As part of the settlement and pursuant to the License and Settlement Agreement and related agreements, Zscaler and its licensed affiliates (the “Zscaler Parties”) obtained a license to, among others, the patents of Finjan, Finjan Mobile, Inc., and Finjan Blue, Inc. (collectively with the Company, the “Finjan Parties”) and paid Finjan \$7.25 million in cash. Further, upon acquisition of Zscaler or acquisitions by Zscaler, additional one-time license fees may be due to Finjan equal to eight percent (8%) of the gross revenues of certain qualifying products and services for the four (4) concluded quarters immediately preceding the acquisition. The License and Settlement Agreement and related agreements also contained mutual covenants not to sue and mutual releases, among other terms. The remaining terms of the License and Settlement Agreement and related agreements are confidential.

### Future Growth Strategy

Our mission, for the foreseeable future, is to build a diversified cybersecurity company benefiting from historical investments in technology and patents while expanding into new product and service offerings. We believe our patented technologies continue to hold significant value and we intend to vigorously protect our investment, the value of our existing licensees’ investments, and the value that technology and intellectual property represents for our shareholders. We are pursuing and will continue to pursue our growth through the following strategies:

- *Expand our IP Assets through Acquisitions and Strategic Partnerships* -We intend to acquire and develop new patents, technologies or other business assets or companies and invest in intellectual property through strategic partnerships, acquisitions of technology-focused companies, IP portfolios or other assets and other initiatives. We endeavor to identify relevant security technologies and patents that have been, or are anticipated to be, widely adopted by third parties in connection with the manufacture or sale of products and services, and to which we can bring enforcement actions (i.e., licensing or litigation) and other expertise. We may also broaden our technology and patent holdings by working with inventors and universities, acquiring technology companies, investing in research laboratories, start-ups, and by creating strategic partnerships with companies, large and small, seeking to effectively and efficiently monetize their technology and patent assets. Our experience with monetizing both technologies and patents may be considered valuable by potential acquisition candidates and strategic partners who may lack resources or know-how to effectively and efficiently generate a return for those investments.

Through Finjan Blue, we entered into a Patent Assignment and Support Agreement with International Business Machines Corporation, a New York corporation (“IBM”), effective August 24, 2017 (“Patent Assignment Agreement”). Pursuant to the Patent Assignment Agreement, Finjan Blue acquired 41 select issued and pending IBM patents in the security sector in exchange for \$8.5 million cash, payable as follows: (i) \$2.0 million which was paid upon execution of the Patent Assignment Agreement and (ii) \$6.5 million over the subsequent four years, with a final payment due August 24, 2021. IBM will support Finjan Blue in its development and licensing of the IBM Security Patents and provide assistance for such efforts as needed for the term of the Agreement and Finjan Blue will reimburse IBM for reasonable time and out of pocket costs for such assistance, however IBM will not receive further proceeds from such efforts. IBM has reservation of rights with respect to the IBM Security Patents for its current licensees and open source initiatives. Finjan Blue and IBM also agreed to explore further development and licensing opportunities.

The relationship with IBM was further expanded on May 15, 2018 with a second Patent Assignment and Support Agreement (the “May 2018 Patent Assignment Agreement”). Pursuant to the May 2018 Patent Assignment Agreement, Finjan Blue acquired 56 select issued and pending IBM patents in the security sector. The terms of the May 2018 Patent Assignment Agreement are confidential.

On June 29, 2018, the Company including its wholly-owned subsidiaries, entered into the June 2018 License Agreement with Trend Micro Japan and Trend Micro Parties. The parties also entered into related agreements with respect to their respective patents, including the transfer of 18 select issued security-related patent assets from the Trend Micro Parties to Finjan. The remaining terms of the June 2018 License Agreement are confidential.

- *Develop and Expand Existing Patent Portfolio* - We have obtained and continue our efforts to obtain new patents relating to security technologies through research and development and/or acquisitions.
- *Continue to Demonstrate Best Practices in Pursuing Licensing Relationships and Enforcing our Patent Rights* -In March 2014, we adopted Best Practices to demonstrate our commitment to ethical, transparent and consistent business practices for intellectual property licensing. We called upon and continue to promote industry-wide adoption of a set of best practices through leadership organizations such as the Licensing Executive Society (LES) and the Open Register of Patent Owners that support technological advancements, investments in innovation, and continued job creation while protected by a robust patent system. In February of 2017, the American National Standards Institute or ANSI had approved LES' application to receive accreditation to become a Standards Development Organization or SDO. With this new endorsement and governance from ANSI, Finjan is moving swiftly to build industry consensus for IP and patent related matters in a number of disciplines. We intend to continue pursuing a proactive campaign that adheres to our best practices guidelines while rigorously protecting our intellectual property rights. We have entered into preliminary discussions with numerous potential licensees in accordance with these Best Practices but acknowledge that it takes many discussions and many months for preliminary discussions to culminate in a license agreement, if at all. While it is our preference to resolve our patent-related disputes through amicable business solutions, protecting the value of our patented technology is paramount and enforcement actions are sometimes required.
- *Invest in Internal Research & Development through Finjan Mobile* -We continue to pursue internal research and development of security technologies that both relate to Finjan's existing patented inventions as well as new concepts to meet an ever-expanding market need. Since we do not yet have sufficient internal personnel to engage in large-scale research and development, we currently operate this business with limited internal staff focused on strategy and market development while software development is completed under contract with external developers. Products currently available include our Finjan Mobile Secure Browser and a Virtual Private Network (VPN), re-branded as InvinciBull, which can be used within the Finjan Browser or separately to encrypt data and keep consumers secure.

Finjan Mobile released InvinciBull VPN in the latter part of 2018. The VPN is available for use on Apple and Android mobile platforms and Mac and Windows desktop applications. The InvinciBull VPN sits in the VitalSecurity family of products and builds upon the incorporation of Finjan's core security patented technology.

InvinciBull VPN is available for download on the Apple and Android platforms in the iTunes and Google Play stores and desktop versions for Mac and Windows can be downloaded from [InvinciBull.io](http://InvinciBull.io).

The Company continues to explore inorganic growth and acquisition opportunities along with additional marketing efforts to complement the vision for Finjan Mobile.

Although we currently pursue growth initiatives through the above strategies, unforeseen market and industry conditions and new developments may necessitate changes in our strategies. We intend to remain resilient, flexible, and open to new opportunities that benefit our shareholders.

## **Competition**

One of our strategic goals is to leverage the operational platform we have built to realize value inherent in not only our existing patent portfolio and cybersecurity technologies, but also technologies and other assets to be developed and acquired in the future. We expect, however, to encounter significant competition in the area of technology and intellectual property acquisitions given the highly competitive nature of the cybersecurity sector. In certain cases, we may partner with venture capital firms, strategic corporate buyers and various industry leaders to effectuate a technology acquisition or realize new licensing opportunities. In other situations, these same venture capital firms, corporate buyers and industry players may be our direct competitors for the technology and intellectual property assets.

We also face competitive pressures in the sense that companies may develop competing technologies that offer better or less expensive alternatives to our patented technologies (*i.e.* “design arounds”). Technological advances or entirely different approaches developed by one or more of our competitors could render certain of the technologies owned or controlled by our operating subsidiaries obsolete and/or materially reduce their value.

## **Patented Technologies**

Through Finjan and Finjan Blue, we currently have 32 and 92 issued U.S. patents, respectively, Finjan has 39 international issued patents and Finjan Mobile has 6 issued U.S. patents. Finjan also has 1 U.S. patent application pending, as of the date of this report. Although we may, from time to time, focus on monetizing certain of these patents, we consider all of our patents to be “core” patents for our business.

The following tables set forth a brief description of issued and pending U.S. patents, including their respective titles:

**FINJAN'S ISSUED U.S. PATENTS**

<b>U.S. Patent No.</b>	<b>Title</b>
6,092,194 *	System and Method for Protecting a Computer and a Network from Hostile Downloadables
6,154,844 *	System and Method for Attaching a Downloadable Security Profile to a Downloadable
6,167,520*	System and Method for Protecting A Client During Runtime from Hostile Downloadables
6,480,962*	System and Method for Protecting A Client During Runtime from Hostile Downloadables
6,804,780 *	System and Method for Protecting a Computer and a Network from Hostile Downloadables
6,965,968	Policy-Based Caching
7,058,822	Malicious Mobile Code Runtime Monitoring System and Methods
7,418,731	Method and System for Caching at Secure Gateways
7,613,918 *	System and Method for Enforcing a Security Context on a Downloadable
7,613,926 *	Method and System for Protecting a Computer and a Network from Hostile Downloadables
7,647,633	Malicious Mobile Code Runtime Monitoring System and Methods
7,756,996	Embedding Management Data Within HTTP Messages
7,757,289	System and Method for Inspecting Dynamically Generated Executable Code
7,769,991	Automatically Executing an Anti-Virus Application on a Mobile Communication Device
7,930,299	System and Method for Appending Security Information to Search Engine Results
7,975,305	Method and System for Adaptive Rule-Based Content Scanners for Desktop Computers
8,015,182	System and Method for Appending Security Information to Search Engine Results
8,079,086 *	Malicious Mobile Code Runtime Monitoring System and Methods
8,087,079	Byte-Distribution Analysis of File Security
8,141,154	System and Method for Inspecting Dynamically Generated Executable Code
8,225,408	Method and System for Adaptive Rule-Based Content Scanners
8,474,048	Website Content Regulation
8,566,580	Splitting an SSL Connection Between Gateways
8,677,494 *	Malicious Mobile Code Runtime Monitoring System and Methods
9,141,786 *	Malicious Mobile Code Runtime Monitoring System and Methods
9,189,621 *	Malicious Mobile Code Runtime Monitoring System and Methods
9,219,755 *	Malicious Mobile Code Runtime Monitoring System and Methods
9,294,493	Computer Security Method and System with Input Parameter Validation
9,444,844*	Malicious Mobile Code Runtime Monitoring System and Methods
9,525,680	Splitting an SSL Connection Between Gateways
9,800,553	Splitting an SSL Connection Between Gateways

\* Indicates that such patent has expired.

**FINJAN'S PENDING U.S. PATENT APPLICATIONS**

<b>Application No.</b>	<b>Title</b>
15/708,719	Splitting an SSL Connection Between Gateways

**FINJAN BLUE'S ISSUED U.S. PATENTS**

<b>U.S. Patent No.</b>	<b>Title</b>
6,199,204*	Distribution of Software Updates via a Computer Network
6,202,207*	Method and a Mechanism for Synchronized Updating of Interoperating Software
6,314,428*	Method and Apparatus for Application Management in Computer Networks
6,584,569	System for Determining Web Application Vulnerabilities
6,779,021	Method and System for Predicting and Managing Undesirable Electronic Mail
6,785,732	Web Server Apparatus and Method for Virus Checking
6,826,716	Test Programs for Enterprise Web Applications

6,907,531	Method and Systems for Identifying, Fixing and Updating Security Vulnerabilities
7,084,760	System, Method and Program Product for Managing an Intrusion Detection System
7,140,041	Detecting Dissemination of Malicious Programs
7,177,937	Web Server Apparatus And Method For Virus Checking
7,237,265	System for Determining Web Application Vulnerabilities
7,340,776	Method and System for Configuring And Scheduling Security Audits of a Computer Network
7,346,929	Method and Apparatus for Auditing Network Security
7,437,760	Antiviral Network System
7,475,427	Apparatus, Methods and Computer Programs for Identifying or Managing Vulnerabilities Within a Data Processing Network
7,487,543	Method and Apparatus For The Automatic Determination of Potentially Worm-Like Behavior of a Program
7,490,354	Virus Detection in a Network
7,739,739	Antiviral Network System
7,770,225	Method and Apparatus for Auditing Network Security
7,779,474	Virus Detection in a Network
7,895,340	Web Server Apparatus and Method for Virus Checking
7,945,957	Antiviral Network System
7,996,905	Method and Apparatus for the Automatic Determination of Potentially Worm-Like Behavior of a Program
8,006,289	Method And System For Extending Authentication Methods
8,261,354	System, Method and Program Product for Dynamically Performing an Audit and Security Compliance Validation in an Operating Environment
8,381,242	Static Analysis for Verification of Software Program Access to Secure Resources for Computer Systems
8,458,793	Methods, Computer Program Products and Data Structures for Intrusion Detection, Intrusion Response and Vulnerability Remediation Across Target Computer Systems
8,495,357	Data Security Policy Enforcement
8,510,842	Pinpointing Security Vulnerabilities in Computer Software Applications
8,572,750	Web Application Exploit Mitigation in an Information Technology Environment
8,640,252	Obfuscating Entry of Sensitive Information
8,646,086	Image Vulnerability Repair in a Networked Computing Environment
8,683,599	Static Analysis for Verification of Software Program Access to Secure Resources for Computer Systems
8,694,786	Virtual Machine Images Encryption Using Trusted Computing Group Sealing
8,695,098	Detecting Security Vulnerabilities in Web Applications
8,752,182	Pinpointing Security Vulnerabilities in Computer Software Applications
8,782,351	Protecting Memory of a Virtual Guest
8,788,763	Protecting Memory of a Virtual Guest
8,793,800	Static Analysis for Verification of Software Program Access to Secure Resources for Computer Systems
8,800,047	System, Method and Program Product for Dynamically Performing an Audit and Security Compliance Validation in an Operating Environment
8,910,291	Black-Box Testing of Web Applications with Client-Side Code Evaluation
8,935,794	Verifying Applications Security Vulnerabilities
8,943,599	Certifying Server Side Web Applications Against Security Vulnerabilities
8,949,995	Certifying Server Side Web Applications Against Security Vulnerabilities
8,955,094	User Session Management for Web Applications
8,984,642	Detecting Security Vulnerabilities in Web Applications
9,003,480	Classifying Files on a Mobile Computer Device
9,032,528	Black-Box Testing of Web Applications With Client-Side Code Evaluation
9,032,529	Detecting Vulnerabilities in Web Applications

9,094,446	Image Vulnerability Repair in a Networked Computing Environment
9,124,624	Detecting Vulnerabilities in Web Applications
9,160,756	Method and Apparatus for Protecting Markup Language Document Against Cross-Site Scripting Attack
9,160,762	Verifying Applications Security Vulnerabilities
9,172,717	Security-Aware Admission Control of Requests in a Distributed System
9,189,625	Data Management of Potentially Malicious Content
9,231,970	Security-Aware Admission Control of Requests in a Distributed System
9,256,511	Computer Software Application Self-Testing
9,264,443	Browser Based Method of Assessing Web Application Vulnerability
9,271,146	Mobile Privacy Information Proxy
9,317,697	Processing of Restricted Access Data
9,460,291	Detecting Stored Cross-Site Scripting Vulnerabilities in Web Applications
9,471,787	Detecting Stored Cross-Site Scripting Vulnerabilities in Web Applications
9,497,209	Image Vulnerability Repair in a Networked Computing Environment
9,530,016	Using Source Taint Analysis to Reduce False Positives in an Advanced Persistent Threat (Apt) Protection Solution
9,536,085	Data Management of Potentially Malicious Content
9,544,327	Prioritizing Security Findings in a SAS Tool Based on Historical Security Analysis
9,679,159	Mobile Privacy Information Proxy
9,762,606	Image Vulnerability Repair in a Networked Computing Environment
9,838,412	Computer Software Application Self-Testing
9,876,816	Detecting Stored Cross-Site Scripting Vulnerabilities in Web Applications
9,882,926	Detecting Stored Cross-Site Scripting Vulnerabilities in Web Applications
10,552,603	Malicious Mobile Code Runtime Monitoring System and Methods
* Indicates that such patent has expired.	

**FINJAN MOBILE'S ISSUED U.S. PATENTS**

U.S. Patent No.	Title
9,554,279	Authorized Areas Of Authentication
9,749,867	Authorized Areas Of Authentication
10,003,975	Authorized Areas Of Authentication
10,069,858	Secure And Private Mobile Web Browser
10,091,214	Malware Warning
10,303,898	Detection and Blocking of Web Trackers for Mobile Browsers

**Employees**

As of December 31, 2019, we had 9 full-time employees, on a consolidated basis and across all of our business lines. We have budgeted to hire additional full-time employees (not including additional consultants or independent contractors) in the near future to expand our licensing and enforcement. Personnel in our licensing and enforcement business are responsible for the execution of our licensing and enforcement strategy, including analyzing licensing opportunities and enforcement requirements, making tactical decisions related to our strategy, identifying new applications for our existing technologies and pursuing opportunities to invest in new technologies through strategic partnerships and acquisitions. Although our management dictates and controls our overall litigation strategy for each case we litigate (or settle), we use outside legal counsel to execute certain aspects of our strategies. We also use consultants, including Finjan’s founder and former Chief Technology Officer, Shlomo Touboul, to assess opportunities related to our technologies and additional technologies we may pursue in the future. We also expect to hire additional full-time employees into Finjan Blue to support our development and licensing efforts of the patents obtained through our Patent Assignment Agreement and our mobile security business, operated through our subsidiary Finjan Mobile.

Neither we nor any of our subsidiaries is a party to any collective bargaining agreement. We consider our employee relations to be good.

## **Corporate Information**

Our principal executive offices are located at 2000 University Avenue, Suite 600, East Palo Alto, CA 94303. Our telephone number is (650) 282-3228 and our web address is [www.finjan.com](http://www.finjan.com). Financial and other information can be accessed on the "Investors" section of our website. We make available through our website, free of charge, copies of our annual reports on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K, and amendments to those reports filed or furnished pursuant to Section 13(a) or 15(d) of the Exchange Act as soon as reasonably practicable after filing such material electronically or otherwise furnishing it to the Securities and Exchange Commission (the "SEC"). Also posted on our website are certain corporate governance documents, including our Code of Business Conduct and Ethics. The reference to our website is textual in reference only, and the information included or referred to on, or accessible through, our website does not constitute part of, and is not incorporated by reference into, this report or any other filing.

We also file periodic reports, proxy statements and other information with the SEC. The SEC maintains an internet site at <http://www.sec.gov> that contains reports, proxy and information statements and other information regarding us and other issuers that file electronically with the SEC.

## **ITEM 1A. RISK FACTORS.**

*Investing in our common stock involves a high degree of risk. You should consider carefully the risks, uncertainties and other factors described below, in addition to the other information set forth in this Form 10-K, before making an investment decision. Any of these risks, uncertainties and other factors could materially and adversely affect our business, financial condition, results of operations, cash flows or prospects. In that case, the market price of our common stock could decline, and you may lose all or part of your investment in our common stock. See also "Cautionary Statement Regarding Forward-Looking Statements."*

### **Risks Related to Our Cybersecurity Business**

*We are presently substantially reliant on a limited number of patented technologies that we own through Finjan that have begun to expire.*

We derive substantially all of our income from a relatively small number of patented technologies. As of December 31, 2019, our assets consisted primarily of Finjan's 32 U.S. and 39 international patents, Finjan Blue's 92 patents acquired from IBM and Finjan Mobile's 6 patents. Finjan's current U.S. issued patents began expiring in 2017, and we currently have 1 U.S. patent application pending as of the date of the filing of this Annual Report on Form 10-K. As new technological advances occur, many of the patented technologies we own through Finjan may become obsolete before they are completely monetized. The monetization of our patented technologies through Finjan Blue has been limited to date. There can be no certainty that we will be able to monetize our Finjan Blue patents sufficiently to recoup the cost of acquiring such patents. If we are unable to monetize our current patent assets for any reason, including obsolescence of our technologies, the expiration of our patents, or challenges to the enforceability of our patents through patent office *ex parte* re-examination or *Inter Partes* Reviews ("IPRs") or any other reason, our business and prospects would be materially harmed.

*We have a history of significant cash needs and this may increase in the future.*

As of December 31, 2019, we had approximately \$36.1 million in cash and cash equivalents and short-term investments and working capital of \$29.0 million. We reported a net loss for the year ended December 31, 2019 of \$16.5 million. Although we reported net income for the years ended December 31, 2018 and 2017, we expect to continue incurring significant legal and other selling, general and administrative expenses in connection with our operations. We believe, however, that our existing revenue opportunities, balances of cash and cash equivalents and investments will be sufficient to finance our anticipated capital and operating requirements for the next twelve months from the date of filing this annual report. Such belief is based on current forecasts and assumptions regarding licensing of our technology, which are currently at various stages of negotiation (which may not be successfully completed), our emerging business, as well as other financing and revenue sources. We may not be successful in finalizing such licensing efforts and even if successful, may need to raise additional capital in order to provide sufficient funds to support and grow our business.

***Any failure to protect or enforce our patents or other intellectual property rights could materially impair our business.***

Our ability to successfully operate our business depends largely on the validity and enforceability of our patents and the relevance of our patent rights to commercially viable products or services. Third parties have challenged, and we expect will continue to challenge, the infringement, validity and enforceability of certain of our patents. In some instances, our patent claims could be substantially narrowed or declared invalid, unenforceable, not essential, not infringed or a combination of the foregoing. We cannot assure you that the validity and enforceability of our patents will be maintained or that our patent claims will be applicable to any particular product or service. In addition, the U.S. Patent and Trademark Office (the “USPTO”) could invalidate or render unenforceable our patents or materially narrow the scope of the patent claims during the course of USPTO post-grant proceedings such as, for example, re-examinations or IPRs. Any significant adverse finding by the USPTO or adverse verdict of a court as to the validity, enforceability or scope of certain of our patents and/or any successful design around certain of our patents could materially and adversely affect our ability to secure future settlements or licenses on favorable terms, if at all, and otherwise harm our business.

Under the Leahy-Smith American Invents Act (“AIA”), patents previously granted by the USPTO may be reviewed through post-patent grant proceedings such as reexaminations or IPRs. The basic characteristics of *Ex Parte* reexamination are: the patent owner or a third party may request the USPTO to reexamine an issued U.S. patent based on patents and printed publications that the requester submits for the USPTO’s consideration. The requester must establish that the submitted prior art establishes a substantial and new question of patentability, and if the requester meets such burden, the USPTO will grant the request and order reexamination of the patent at issue. Unless the requester of the reexamination is the patent owner, the requester’s participation terminates following such reexamination order and only the patent owner may proceed. The patent owner can appeal the final decision of the Central Reexamination Unit (“CRU”) of the USPTO to the Patent Trial and Appeal Board (“PTAB”) and may further appeal a negative decision to the Court of Appeals for the Federal Circuit (“CAFC”).

Generally, the grounds on which a petition for IPR is granted is whether the claimed invention is patentable strictly in light of prior art consisting of patents or printed publications. The petitioner must demonstrate that there is a reasonable likelihood that he/she/it will prevail as to at least one of the patent claims challenged to trigger the IPR. The PTAB decides on petitions and can reject them if the prior art is the same or substantially the same prior art or arguments previously presented to the USPTO. If the petition is granted, an IPR is statutorily required to be completed within one year of institution, which is extendable for up to six months for good cause. Unlike reexaminations, the third party petitioner may stay involved in the proceedings. IPRs are handled at the outset by the PTAB and do not go through the CRU of the USPTO. Final decisions of the PTAB are immediately appealable to the CAFC, either by the patent owner or the third party. It is becoming a trend, if not a practice, for accused infringers to petition for reexaminations or IPRs of asserted patents as these proceedings may give the petitioner “two bites at the apple”. Parties to our enforcement actions may initiate IPRs with respect to our patents in the future. Although we believe our patents are patentable in light of prior art, these proceedings unpredictable. The outcome can range from decisions favorable to the patent holder, favorable to both parties, or favorable to the petitioner. If the outcome is the latter, the value of the challenged patent can be materially reduced or extinguished.

***Our licensing cycle is lengthy and costly, and our licensing efforts may be unsuccessful.***

The process of engaging a potential licensee to adopt a license can be lengthy and may not always result in a license agreement. It may take many months or longer to identify potential licensees, prepare marketing, technical or other materials, educate potential licensees on the benefits of entering into a license and agree, if at all, to licensing terms, conditions and price. Even after expending significant time and resources into licensing efforts, we may be unsuccessful in entering into a licensing agreement with a potential licensee. As such, we may incur significant losses in any particular period before any associated revenue stream begins, if at all.

***We currently are, and expect to continue to be involved in costly, time-consuming and uncertain litigation and administrative actions to enforce our patents, which may adversely affect our financial condition and our ability to operate our business.***

If we believe a third party is infringing one or more of our patents and refuses to obtain a license to use our patented technologies, we may be compelled to commence legal or administrative action against those third parties. For example, due to the breakdown in licensing discussions, we initiated patent infringement litigation against Juniper Networks, Bitdefender, and Zscaler in the second half of 2017 (Bitdefender and Zscaler have since settled). In 2018 we initiated patent infringement litigation against Check Point Software Technologies, Inc. and its affiliates, Fortinet, Inc., Rapid7, Inc., and Qualys, Inc. Patent litigation is inherently uncertain and we cannot predict the outcome of any litigation or administrative action. In each case we retain legal counsel and are highly dependent on individual attorneys to represent our claims, meet timelines and to advance the

merits of each action. Any change to legal counsel could present additional risk to any such action. Moreover, many of the parties we believe infringe our patents are large and well-funded companies with substantially greater resources than we have and may devote substantial resources toward avoiding or limiting liability and the amount of associated damages for infringing our patents. We could also face counterclaims that challenge the essential nature, validity, enforceability or infringement of our patents. Regardless of whether legal action is successful, legal and expert fees and other costs associated with enforcement action are significant.

***Our cash flows can be unpredictable, and this may harm our financial condition or the market price for our common stock.***

The amount and timing of cash flows from our licensing and enforcement activities are subject to uncertainties stemming primarily from uncertainties regarding the rates of adoption of our patented technologies, our lengthy license negotiation cycles, the growth rates of our licensees, the outcome of enforcement actions and certain other factors. As such, our income and cash flows may vary significantly from period to period, which could make our business difficult to manage, adversely affect our business and operating results, cause our annual or quarterly results to fall below market expectations and adversely affect the market price of our common stock.

***Our cash flows and income have been derived from a limited number of sources.***

Our income in recent years has been derived from a limited number of license agreements and settlements, and we expect that, in the near term, any income that we generate will be derived from a limited number of sources. In 2019, we derived approximately \$13.2 million of income from license agreements with two licensees. In 2018, we derived approximately \$82.3 million of income from license agreements with three licensees. In 2017, we derived approximately \$50.5 million of income from license agreements with six licensees. If we are unable to reach settlements and license agreements with a sufficient number of identified third parties who use our technologies, our future income and cash flow could be adversely affected.

***We may raise additional capital to support our present business plan and our anticipated business growth and such capital may not be available on acceptable terms, or at all, which would adversely affect our ability to operate.***

During 2017, we raised net proceeds of \$14.4 million through the issuance of Series A-1 Preferred Stock and net proceeds of \$12.0 million through a sale of our common stock. Based on our current operating plans (which includes our expectation of signing additional license agreements in 2020, which may not occur), our current resources are expected to be sufficient to fund our planned operations for the coming twelve months. We nonetheless may raise additional financing to fund licensing and enforcement actions, planned research and development activities and to better solidify our financial position. We may also need to raise additional funds in connection with any acquisitions of technology or intellectual property assets that we pursue. Such additional capital may not be available on acceptable terms, or at all, which would adversely affect our operations. If we raise additional funds by issuing equity securities, our stockholders may experience dilution. Debt financing, if available, may involve covenants restricting our operations or our ability to incur additional debt. Any debt or additional equity financing that we raise may contain terms that are not favorable to us or our stockholders.

Further, if we are unable to obtain additional funding on a timely basis, we may be required to curtail or terminate some or all of our business plans, which would harm our operating results.

***Any debt we incur in the future in capital raising efforts may limit our flexibility to obtain further financing and to pursue other business opportunities.***

If our anticipated capital raising efforts involve debt financing, we will have limitations on our ability to raise additional debt financing or incur liens, as well as other limitations. Such limitations may limit our flexibility to pursue other business opportunities. Additionally, our future level of indebtedness could have important consequences to us, including the following:

- our ability to obtain additional financing, if necessary, for working capital, or other purposes may be impaired or such financing may not be available on favorable terms;
- our funds available for operations, future business opportunities and distributions to stockholders will be reduced by that portion of our cash flow required to make future interest payments on any debt incurred; and
- we may be more vulnerable to competitive pressures or a downturn in our business or the economy generally.

Our ability to service any debt raised in the future will depend upon, among other things, our successful monetization of our patents, which will be affected by prevailing economic conditions and financial, business, and other factors, some of which are beyond our control.

***If we are unable to successfully commercialize our new business or identify additional sources of revenue, our financial condition and operations may be materially adversely impacted.***

We generate substantially all of our revenue from license and settlement agreements related to our patented technologies. In 2015, we launched our mobile security business, Finjan Mobile. In 2017, Finjan Blue was founded to support our development and licensing efforts of the IBM Security Patents obtained by Finjan Blue through the Patent Assignment and Support Agreement with IBM. The Agreement, the terms of which are confidential, includes pathways for Finjan and IBM to consider development efforts in the future and provides for the sharing of pertinent institutional knowledge and resources by IBM to Finjan Blue. Since such businesses are relatively new and unproven, they may not yield any viable new revenue, inventions or technology, which would lead to a loss of our investment in such activities. Such activities could also distract our management team from its present business initiatives, which could have a material and adverse effect on our business. If we are unable to generate sufficient revenue from such businesses or invent or acquire new technologies or products, our financial condition and operations may be materially impacted.

***If we suffer a cyber-security event, we may lose Finjan Mobile customer data and incur liabilities, any of which would harm our business and operating results.***

As cyber-security threats develop and evolve, it may be necessary to make further investments to protect data and infrastructure. A security breach or unauthorized access or loss of data could result in a disruption to our Finjan Mobile service, litigation, the triggering of indemnification and other contractual obligations, regulatory investigations, government fines and penalties, reputational damage, loss of sales and customers, mitigation and remediation expenses among other liabilities.

***We are subject to privacy and data protection laws and regulations with respect to our Finjan Mobile business. Our failure to comply with these or any future laws, regulations or obligations could subject us to sanctions and damages and could harm our reputation and business.***

The U.S. federal and various state and foreign governments have adopted or proposed limitations on, or requirements regarding, the collection, distribution, use, security and storage of personally identifiable information of individuals, including payment card information, and the FTC and many state attorneys general are applying federal and state consumer protection laws to impose standards on the online collection, use and dissemination of data. Self-regulatory obligations, other industry standards, policies, and other legal obligations may apply to our collection, distribution, use, security or storage of personally identifiable information or other data relating to individuals, including payment card information. These obligations may be interpreted and applied in an inconsistent manner from one jurisdiction to another and may conflict with one another, other regulatory requirements or our internal practices. Any failure or perceived failure by us to comply with U.S., E.U. or other foreign privacy or security laws, policies, industry standards or legal obligations or any security incident resulting in the unauthorized access to, or acquisition, release or transfer of, personally identifiable information or other data relating to our customers, employees and others, including payment card information, may result in governmental enforcement actions, litigation, fines and penalties or adverse publicity and could cause our customers to lose trust in us, which could have an adverse effect on our reputation and business.

We expect there will continue to be new proposed laws, regulations and industry standards concerning privacy, data protection and information security in the U.S., the European Union (including the General Data Protection Regulation (GDPR)) and other jurisdictions, including the recently enacted California Consumer Privacy Act (CCPA). We cannot yet determine the impact such laws, regulations and standards may have on our business. Future laws, regulations, standards and other obligations could impair our ability to collect or use information, thereby impairing our ability to maintain and grow our total customers and increase revenue in Finjan Mobile.

***We may be unable to achieve the financial or other goals intended at the time of any potential acquisition.***

Our growth strategy includes the potential acquisition of patent, technology or other business assets or companies to further diversify our assets and business operations. We may not be successful in identifying or funding acquisitions that are consistent with our strategy or in completing such acquisitions. Acquisitions of patent, technology or other business assets or companies are subject to numerous potential risks, including the following:

- our inability to enter into a definitive agreement with respect to any potential acquisition, or if we are able to enter into such agreement, our inability to consummate the potential acquisition;

- our inability to achieve the anticipated financial and other benefits of a specific acquisition;
- our inability to obtain the necessary financing, on favorable terms or at all, to finance any or all of our potential acquisitions;
- risks of entering markets in which we have no or limited direct prior experience and where competitors in such markets have stronger market positions;
- our inability to retain key personnel from an acquired company, if necessary;
- difficulty in maintaining controls, procedures and policies during the transition and integration process;
- our inability to integrate the target company's technologies, products or businesses with ours;
- diversion of our management's attention from other business concerns; and
- failure of our due diligence processes to identify significant issues, including issues with respect to patented technologies and patent portfolios, and other legal and financial contingencies.

If we are unable to manage these risks effectively as part of any acquisition, our business and prospects could be adversely affected. Depending upon the nature and structure of future acquisitions, our stockholders may not have the ability to vote on, or consent to, the consummation of any such acquisition.

***Technologies we acquire in the future, if any, may not be commercially successful.***

We may acquire patents and technologies that are in the early stages of adoption in the commercial and consumer markets. Demand for some of these technologies may be untested and subject to fluctuation based upon the rate at which such patents and technologies are adopted in products and services. These technologies may require long development cycles and a substantial investment before we can determine their commercial viability. As a result, there can be no assurance as to whether technologies we acquire will have value that can be timely monetized, if at all. Through Finjan Blue, we entered into a Patent Assignment and Support Agreement with IBM, effective August 24, 2017. Under the Patent Assignment Agreement, IBM is to support Finjan Blue in its development and licensing of the IBM Security Patents. On May 15, 2018, we further expanded the IBM relationship by entering into a second Patent Assignment and Support Agreement. However, there can be no assurance that we will be successful in our efforts to develop and license the IBM Security Patents or that we will recoup our investment in the IBM Security Patents. Additionally, IBM's announcement in January 2020 that it had joined LOT Network Inc, a non-profit community of companies that protects its members against patent assertion entities (PAEs), and IBM's acquisition of LOT Network founding member Red Hat in 2019, may have an impact on the expected value of the IBM Security Patents.

***Failures in our due diligence and/or inaccuracies of representations and warranties made by third parties may expose us to material liabilities, write-downs or write-offs in the future.***

We expect to conduct due diligence investigations of the patent technology or other intellectual property assets of companies we seek to acquire in the future. Due diligence is time consuming and expensive and at times, we may also rely on opinions or representations or warranties of third parties to supplement, replace or support our own independent due diligence. Even if we conduct extensive due diligence on particular patent technology or other intellectual property assets or companies, this diligence may not reveal all material issues that affect the acquisition. If our diligence fails to identify issues related to the applicable patent, technology or other intellectual property assets or companies or industry to which they relate, or opinions, representations or warranties prove to be inaccurate, we may be forced to later write-down or write-off assets or incur impairment or other charges that could result in our reporting losses. Even though these charges may be non-cash items and not have an immediate impact on our liquidity, the fact that we report charges of this nature could contribute to negative market perceptions about us or our common stock. In addition, we may acquire patent technologies or other intellectual property assets or companies from a seller who does not have proper title to those assets. In those cases, we could lose part or all of our investment in the assets.

***Our acquisitions of patents, technology and other assets or companies may be time consuming, complex and costly, which could adversely affect our operating results.***

Acquisitions of patent, technology or other intellectual property assets or companies may be time consuming, complex and costly to consummate. As a result, we expect to incur significant operating expenses and use a substantial portion of our cash resources.

We may incur significant costs to organize and negotiate a structured acquisition that does not ultimately result in an acquisition of any patent, technology or other intellectual property assets or companies or, if consummated, proves to be unprofitable for us. These costs could adversely affect our operating results, and if we incur losses, the value of our securities could decline.

***Our acquisitions of patents, technology or other assets or companies may involve issuing capital that would be dilutive to our stockholders, cause our stock price to drop, or involve raising capital on unfavorable terms, if available.***

Acquisitions of patent, technology or other intellectual property assets or companies may require us to raise capital during the negotiations even if the acquisition is ultimately not consummated. If we raise additional funds through the issuance of equity, equity-linked or debt securities, including those pursuant to a registered offering, those securities may have rights, preferences, or privileges senior to the rights of our common stock, and our existing stockholders may experience dilution. Sales of a substantial number of shares of our common stock in the public market, or the perception that these sales or other financings might occur, could depress the market price of our common stock and could also impair our ability to raise capital through the sale of additional equity securities. If we issue debt securities or incur indebtedness, the occurrence of indebtedness would result in increased fixed payment obligations and could also result in restrictive covenants, such as limitations on our ability to incur additional debt, limitations on our ability to acquire, sell or license patents, technology or other intellectual property assets or companies and other operating restrictions that could adversely impact our ability to conduct our business. If we are unable to obtain additional capital, or are unable to obtain additional capital on satisfactory terms, our ability to continue to support our business growth or to respond to business opportunities, challenges, or other circumstances could be adversely affected, and our business may be harmed.

***It may be difficult for us to verify royalty amounts that we are owed under licensing agreements, and this may cause us to lose revenues.***

We anticipate that the terms of future license agreements may require licensees to document their use of our technologies and report related data to us on a periodic basis. Although license terms may give us the right to audit books and records of licensees to verify this information, audits can be expensive and time consuming, and may not be cost-effective based on our understanding of a licensee's business. Furthermore, any license compliance program that we establish to audit certain licensees in order to review the accuracy of the information contained in their royalty reports may not be effective to ensure that we receive royalties to which we are entitled.

***We depend on key senior management, engineering, patent and licensing resources.***

Our future success depends largely upon the continued contributions of our directors, executive officers and other key management and technical personnel. Our success also depends on our ability to continue to attract, retain and motivate qualified personnel with specialized patent, licensing, and other skills (particularly in the cybersecurity field). The loss of members of our management or key personnel could adversely affect our business. The market for such talent in our industry is extremely competitive, especially in Silicon Valley. In particular, competition exists for qualified individuals with expertise in patents and in licensing and the ability to identify and acquire technologies and patent assets. The failure to attract and retain such persons with relevant and appropriate experience could interfere with our ability to enter into new license agreements, acquire new technologies or otherwise meet our strategic objectives.

***The success of our business depends in part upon our ability to retain qualified legal counsel to represent us in patent litigation and our ability to manage the costs of such services.***

The success of our licensing and enforcement business depends upon our ability to retain qualified legal counsel to advise us and manage our enforcement and litigation activities and our ability to manage the costs of such services. Also, since the cost of litigation can be very uncertain, we may underestimate the cost of legal counsel and related activities, in relation to the value of the enforcement activity.

***Federal courts are becoming more crowded, and as a result, patent enforcement litigation is taking longer and becoming more costly.***

Since patent disputes involving infringement, validity, and enforceability are governed by federal law, our patent enforcement actions are decided within the federal court system. The federal court calendars are often congested with other civil and criminal proceedings, giving rise to the risk of delays in our patent enforcement actions. Such delays may have a negative impact on resolution of our disputes, adversely affect the timing of our cash flow projections and therefore, have a negative impact on our business. Further, lengthening of the litigation process increases the cost of litigation thereby harming our business.

***Any reductions in the funding of the USPTO could have an adverse impact on the cost of processing pending patent applications and the value of those pending patent applications.***

Our business plan includes the possible acquisition of patent applications pending before the USPTO. The value of any patent application we acquire will be dependent upon the issuance of patents in a timely manner, and any reductions in the funding of the USPTO could materially delay the process by which the USPTO issues patents and consequently any income that may be derived for the technologies claimed in the patent application. Further, reductions in funding from Congress could result in higher patent application filing and maintenance fees charged by the USPTO, causing an unexpected increase in our expenses.

***Competition for patent rights and patent portfolios is intense.***

We expect to encounter significant competition in the areas of cybersecurity technology and intellectual property acquisitions. This includes a growing number of competitors seeking to acquire the same companies or similar patents and technologies that we may seek to acquire. We also compete with venture capital firms, strategic corporate buyers and various industry leaders for technology acquisitions and licensing opportunities.

***The markets served by our cybersecurity technologies are subject to rapid technological change, and if we are unable to acquire new technologies and patents, our ability to generate income could be substantially impaired.***

The markets served by our cybersecurity technologies and our licensees frequently undergo transitions in which products rapidly incorporate new features and performance standards on an industry-wide basis. Cybersecurity products are based on continually evolving consumer demands. This will require continued efforts and success in acquiring new patent portfolios with licensing and enforcement opportunities. If we are unable to acquire new patented technologies and patent portfolios, or to identify and ensure compliance with evolving industry standards, our ability to generate income could be substantially impaired and our business and financial condition could be materially harmed.

***Our public company disclosure obligations may have unintended adverse consequences on our licensing and patent enforcement strategy.***

As a public company, we are subject to the disclosure and reporting requirements under the Securities Exchange Act of 1934, as amended, and other applicable U.S. securities laws, as well as the rules and regulations of the SEC and NASDAQ. In order to comply with such laws, rules and regulations, we may be required to disclose certain information that may be detrimental to our current or future licensing and enforcement programs. In addition, our disclosure obligations may adversely affect our ability to enter into license or settlement agreements with third parties who are reluctant to have the monetary value and terms of such agreements publicly disclosed. In such instances, we may seek confidential treatment of certain information reflected in our license or settlement agreements, which requests may be denied by the SEC or limited to a greater extent than requested, which would harm our relationship with current and future licensees. Also, we may incur additional costs and expenses seeking confidential treatment of certain information reflected in such license or settlement agreements, which would negatively impact our operations.

***We are obligated to maintain proper and effective internal control over financial reporting. We may not complete our analysis of our internal control over financial reporting in a timely manner, or this internal control may not be determined to be effective, which may adversely affect investor confidence in our company and, as a result, the value of our common stock.***

While we were able to determine in our management's report for fiscal 2019 that our internal control over financial reporting is effective, we may not be able to complete our evaluation, testing, and any required remediation in a timely fashion, may be unable to assert that our internal controls are effective in the future. In the event that our chief executive officer, chief financial officer, or independent registered public accounting firm determines in the future that our internal control over financial

reporting is not effective as defined under Section 404, we could be subject to one or more investigations or enforcement actions by state or federal regulatory agencies, stockholder lawsuits or other adverse actions requiring us to incur defense costs, pay fines, settlements or judgments and causing investor perceptions to be adversely affected and potentially resulting in a decline in the market price of our stock.

***New legislation, regulations, executive orders, or rules related to obtaining patents or enforcing patents could significantly increase our operating costs and decrease our income.***

If new legislation, regulations or rules are implemented either by Congress, the USPTO, other regulatory agencies or the courts, or if the President of the United States issues executive orders that impact the patent application process, the patent enforcement process or the rights of patent holders, these changes could materially and negatively affect our revenue and expenses. For example, relatively new rules regarding the burden of proof in patent enforcement actions could significantly increase the cost of our enforcement actions, and new standards or limitations on liability for patent infringement or limitations on the ability to bring patent enforcement claims could negatively impact our income derived from such enforcement actions. Similarly, recent judicial decisions relating to fee shifting in patent infringement actions and limitations relating to software patents may make patent licensing and enforcement activities more difficult and costly, though it is unclear what the precise impact of these judicial decisions will be.

Furthermore, U.S. patent laws have been amended by the AIA, certain sections of which became effective in September 2011. The AIA includes a number of significant changes to U.S. patent law. In general, the legislation attempts to address issues surrounding the enforceability of patents and the increase in patent litigation by, among other things, establishing new procedures for patent litigation. For example, the AIA changes the way that parties may be joined in patent infringement actions, increasing the likelihood that such actions will need to be brought individually against parties allegedly infringing by their respective allegations of infringement. In practice, however, many courts have consolidated separate actions asserting the same patent for the purposes of case management and discovery, although individual trials remain separate. In addition, accused infringers may now choose to attack patent validity by instituting an IPR process before the PTAB. In 2015, in *In Re Cuozzo Speed Techs.*, 793 F.3d 1268 (Fed. Cir. 2015), the Federal Circuit upheld a decision permitting the PTAB to evaluate patent claims under a “broadest reasonable interpretation” (“BRI”) standard. This standard used by the PTAB is higher than the “plain and ordinary meaning” standard used in federal district courts, and has led to an arguably higher incidence of the PTAB finding claims invalid in light of prior art. In January 2016, the Supreme Court agreed to hear the appeal on this issue as well as the issue of what decisions by the PTAB are appealable to the traditional appellate court system. It remains unclear what, if any, impact the AIA will have on the operation of our patent monetization and enforcement business. However, the AIA and its implementation could increase the uncertainties and costs surrounding the enforcement of our patented technologies, which could have a material adverse effect on our business and financial condition.

In addition, the United States Department of Justice (“DOJ”) has conducted reviews of the patent system to evaluate the impact of patent assertion entities on industries in which those patents relate. It is possible that the findings and recommendations of the DOJ could impact the ability to effectively license and enforce standards-essential patents and could increase the uncertainties and costs surrounding the enforcement of any such patented technologies.

Furthermore, in various pending litigation and appeals in the United States Federal courts, various arguments and legal theories are being advanced to potentially limit the scope of damages a patent licensing company might be entitled to. Any one of these pending cases could result in new legal doctrines that could make our existing or future patent portfolios less valuable or costlier to enforce.

On April 29, 2014, the United States Supreme Court (“Supreme Court”) issued a decision, *Octane Fitness, LLC v. Icon Health & Fitness, Inc.*, 134 S. Ct. 1749 (2014), relaxing the standard for awarding attorneys’ fees to prevailing parties in patent cases. While the Supreme Court maintained the standard that a case must be deemed “exceptional” under 35 U.S.C. § 285 for an award of attorneys’ fees, it held that district courts were to consider the “totality of the circumstances” in making that determination, that it was not necessary for a court to find independently sanctionable conduct or both objective baselessness and subjective bad faith, and that clear and convincing evidence was not required. Although we are committed to litigating our patent cases in the court room with the highest standard of professional conduct and on the merits of our claims, litigation is unpredictable. We, therefore, cannot guarantee that we will prevail in our litigation matters or that we will not be ordered to pay the prevailing party’s attorneys’ fees, which may be substantial.

On June 19, 2014, the Supreme Court issued a landmark decision in which it significantly tightened the standard for patentability of software patents *Alice Corp. Pty. Ltd. v. CLS Bank Int’l*, 134 S. Ct. 2347 (2014). Specifically, the Supreme Court stated that if you have an idea so abstract that it cannot be patented, simply tying it to a “generic computer cannot transform a patent-ineligible abstract idea into a patent-eligible invention.” The Supreme Court further stated that tying the

abstract idea to “purely functional and generic” hardware would, similarly, not make the idea patentable. Arguably, the *Alice* decision is intended to limit the validity of poor quality software patents. The *Alice* decision may provide accused infringers of software patents new arguments to challenge the validity of such patents. Since *Alice*, however, the Court of Appeals for the Federal Circuit (“Federal Circuit”) has addressed a handful of decisions regarding patent eligibility of software and user interfaces in relation to electronic devices. Pertinent to our business are *Core Wireless Licensing S.A.R.L. v. LG Electronics, Inc., LG Electronics Mobilecomm U.S.A., Inc.*, \_F.3d \_ (Case No. 2016-2684, 2017-1922, Fed. Cir. 2018) and *Finjan, Inc. v. Blue Coat Systems, Inc.*, \_F.3d \_ (Case No. 2016-2520, Fed. Cir. 2018). In both cases, the Federal Circuit found the subject claimed inventions patent eligible and not abstract because they each recited “specific improvement[s] over prior systems.” Practically, the effects of the *Alice* decision are still being assessed as patent holders, attorneys, the USPTO, and courts, are trying to determine the proper bounds of the *Alice* decision. We cannot guarantee that the *Alice* decision and ensuing developments will not have a negative impact on our business.

On June 16, 2015, the Federal Circuit issued an opinion which may lead to more patents being challenged on indefiniteness grounds *Williamson v. Citrix Online, LLC*, 792 F.3d 1339 (Fed. Cir. 2015). One type of patent claim is a “means-plus-function” claim. Section 112(f) of the Patent Act requires that means-plus-function claims include a “corresponding structure,” described in the specification, for performing the function. Previous cases had held that if a claim did not include the word “means,” there was a strong presumption that the requirements of section 112(f) did not apply. The *Williamson* court removed the word “strong” from the presumption, as well as the requirement for a heightened evidentiary showing. *Williamson* may result in an increase in accused infringers challenging patent claims on indefiniteness grounds. Such result could have a material adverse effect on our business and operations.

On June 13, 2016, the Supreme Court issued *Halo Electronics, Inc. v. Pulse Electronics, Inc.*, 579 U.S. \_ (No. 14-1513, June 13, 2016), in which a unanimous Supreme Court rejected the 2007 Federal Circuit decision, *In re Seagate Technology LLC*, 497 F.3d 1360 (Fed. Cir. 2007) (en banc), which established a stringent standard for proving willful patent infringement (aka the “Seagate test”). The Supreme Court instead held that the Seagate test was inconsistent with 35 USC § 284, that provides that “a court may increase the damages up to three times” the amount awarded in a lower court, and “is unduly rigid, and it impermissibly encumbers the statutory grant of discretion to district courts.” Accordingly, the district court judges and juries now have greater latitude to decide the willfulness question and award the prevailing patentee enhanced damages, with the caveat that such a finding should be made only in “egregious” cases. Notwithstanding *Halo*, enhanced damages for willful infringement is not guaranteed, and we, therefore, cannot guarantee that *Halo* will not have a negative impact on our business.

On May 22, 2017, the Supreme Court issued *TC Heartland LLC v. Kraft Foods Group Brands LLC*, 137 S.Ct. 1514 (No. 16-341, May 22, 2017). This decision focused on the question of where a domestic corporate defendant can be sued, i.e., the patent venue under 28 USC §1400(b). Where the Federal Circuit had held in *VE Holding Corp. v. Johnson Gas Appliance Co.*, 917 F.2d 1574 (Fed.Cir. 1990), that patent cases could be brought in any district having personal jurisdiction over the defendant, the Supreme Court in *TC Heartland* determined that for purposes of patent venue, a domestic corporate defendant only resides in its state of incorporation. The impact of *TC Heartland* has shown, among other things, a dramatic decrease in new patent actions filed in the Eastern District of Texas (which accounted for nearly 40% of patent cases filed in the US), while the District of Delaware, where more than half of all publicly traded domestic companies are incorporated had a significant increase in the number of new patent cases filings. The District Court for the Northern District of California - which is where the majority of our cases are filed -- has also gained noticeable increase in new patent filings. Although most of our cases are filed in the Northern District of California, we cannot guarantee that we will not have to file in another venue or that filing in another venue will not have a negative impact on our business.

Further, and in general, it is impossible to determine the extent of the impact of any new laws, regulations or initiatives that may be proposed, or whether any of the proposals will become enacted as laws. Compliance with any new or existing laws or regulations could be difficult and expensive, affect the manner in which we conduct our business and negatively impact our business, prospects, financial condition and results of operations.

***Our operations are subject to risks of natural disasters, acts of war, terrorism or widespread illness (such as COVID-19), any one of which could result in a business stoppage and negatively affect our operating results.***

Our business operations depend on our ability to maintain and protect our facility, computer systems and personnel, which are primarily located in East Palo Alto. Our business operations are in close proximity to known earthquake fault zones. Our facility and transportation for our employees are susceptible to damage from earthquakes and other natural disasters such as fires, floods and similar events. Should earthquakes or other catastrophes such as fires, floods, power outages, communication failures or similar events disable our facilities, we do not have readily available alternative facilities from which we could conduct our business, which stoppage could have a negative effect on our operating results. Acts of terrorism, widespread illness (such as COVID-19) and war could also have a negative effect at our international and domestic facilities and on our operating results.

***Our ability to attract and retain qualified members of our board of directors is already difficult and such difficulty may increase due to new state laws, including California's recently enacted law requiring female board members.***

On January 1, 2019, a California law went into effect requiring public companies headquartered in California to maintain minimum female representation on their boards of directors as follows: by the end of 2019, at least one woman on its board, by the end of 2020, public company boards with five members will be required to have at least two female directors, and public company boards with six or more members will be required to have at least three female directors. Failure to achieve designated minimum levels in a timely manner exposes such companies to costly financial penalties and possible reputational harm. To date, we have not added a female director to our board and we cannot assure that we can recruit, attract and/or retain qualified members of the board and meet the female board requirements of the California law, and therefore we may be subject to financial penalties under the California law.

#### **Risks Related to Our Common Stock**

***Concentration of ownership among our existing executive officers, directors and their affiliates, and others who beneficially own at least 10% of our outstanding common stock, may prevent new investors from influencing significant corporate decisions.***

Our executive officers, directors and their affiliates, together with others who own at least 10% of our outstanding common stock, beneficially own or control approximately 37% of our common stock. Accordingly, these persons, acting individually or as a group, will have substantial influence over the outcome of a corporate action requiring stockholder approval, including the election of directors, any merger, consolidation or sale of all or substantially all of our assets or any other significant corporate transaction. These stockholders may also exert influence in delaying or preventing a change in control of our company, even if such change in control would benefit our other stockholders. In addition, the significant concentration of stock ownership may adversely affect the market value of our common stock due to investors' perception that conflicts of interest may exist or arise.

***Future sales by us or our existing stockholders could dilute our stockholders and depress the market price of our common stock.***

Based on information contained in Schedule 13D/A and Form 4 filings made throughout 2018 and 2019, two of our significant stockholders sold a significant number of shares of our common stock. While it is not easy to quantify how such sales may have depressed our share price, if other existing stockholders sell a large number of shares of our common stock, or if we sell additional common stock or securities that are convertible into common stock, in the future, the market price of our common stock could decline. Further, even the perception in the public market that we or our existing stockholders might sell shares of common stock could depress the market price of our common stock.

In addition, the issuance of additional shares by us, including (i) 4,140,000 shares of our common stock in a public offering in 2017 and (ii) the issuance of 2,355,158 shares of our common stock underlying outstanding stock options and restricted stock units, 1,843,468 of which were vested as of December 31, 2019, could dilute our stockholders' ownership and voting interests in the Company and increase the number of shares of our common stock eligible for resale in the public market. Further, following approval of our stockholders at our 2017 annual meeting of stockholders, we (i) increased the number of shares reserved under our 2014 Incentive Compensation Plan ("2014 Plan") by 1,000,000 shares and (ii) added an "evergreen" feature which provides for the annual replenishment of shares to the 2014 Plan share reserve without stockholder approval (equal to 5.0% of our outstanding shares of Common Stock as of the end of our immediately preceding fiscal year). The issuance of shares of our common stock underlying stock options and restricted stock units to be issued following such increase will dilute our stockholders' ownership and voting interests in the Company and increase the number of shares of our common stock eligible for resale in the public market. Finally, in 2017 the Company issued to Soryn HLDR a fully vested common stock

warrant to purchase 2,355,506 shares of common stock, at an exercise price of \$3.18 per share, with a term of three years in connection with the Series A-1 Preferred Stock financing. Though currently out of the money, the exercise of such warrant will further dilute our stockholders' ownership and voting interests in the Company and increase the number of shares of our common stock eligible for resale in the public market.

***Our Common Stock may be affected by trading volume and price fluctuations, which could adversely impact the value of our Common Stock.***

The stock market in general has experienced extreme price and volume fluctuations that have often been unrelated or disproportionate to the operating performance of companies with securities traded in those markets. Broad market and industry factors may seriously affect the market price of companies' stock, including ours, regardless of actual operating performance.

Market prices for public companies whose principle revenues are derived from the licensing of intellectual property have been particularly volatile. We believe that various factors may cause the market price of our common stock to fluctuate, perhaps substantially, and the factors include, among others, the following:

- quarterly variations in our operating results compared to market expectations;
- our raising or failure to raise additional capital;
- the risk of our inability to continue to meet listing requirements of the NASDAQ;
- developments in relationships with licensees;
- our or our competitors' technological innovations;
- announcements of developments in our patent enforcement actions
- our failure to meet or exceed securities analysts' expectations of our financial results;
- a change in financial estimates or securities analysts' recommendations;
- changes in management's or securities analysts' estimates of our financial performance;
- changes in market valuations of similar companies;
- regulatory developments and court decisions that negatively impact the ability of patent owners to protect their assets.
- actual or expected sales of our common stock by our stockholders, including any of our significant stockholders.

***Our common stock may be considered a "penny stock."***

The SEC has adopted regulations, which generally define "penny stock" to be an equity security that has a market price of less than \$5.00 per share, subject to specific exemptions. The market price of our common stock is less than \$5.00 per share and therefore may be a "penny stock." Brokers and dealers effecting transactions in "penny stock" must disclose certain information concerning the transaction, obtain a written agreement from the purchaser and determine that the purchaser is reasonably suitable to purchase the securities. These rules may restrict the ability of brokers or dealers to sell our common stock and may affect your ability to sell shares of our common stock in the future.

***Our stockholders may experience significant dilution if future equity offerings are used to fund operations or acquire complementary businesses.***

Our authorized capital stock consists of eighty million (80,000,000) shares of common stock and ten million (10,000,000) shares of blank check preferred stock. If we engage in capital raising activities in the future as we did in May 2016 and June 2017, including issuances of common stock or securities that are convertible into, or exercisable for, our common stock, to fund the growth of our business, our stockholders could experience significant dilution. In addition, securities issued in connection with future financing activities or potential acquisitions may have rights and preferences senior to the rights and preferences of our common stock. We have adopted an equity incentive plan pursuant to which equity awards may be granted to eligible employees (including our executive officers) and directors, if our board of directors determines that it is in the best interest of the Company and our stockholders to do so. The issuance of shares of our common stock upon the exercise of any such equity awards may result in dilution to our stockholders and adversely affect our earnings.

***If securities or industry analysts do not publish, or cease publishing, research or reports about us, our business or our market, or if they change their recommendations regarding our stock adversely, our stock price and trading volume could decline.***

The trading market for our common stock may be influenced by whether industry or securities analysts publish research and reports about us, our business, our market or our competitors and if any analysts do publish such reports, what they publish in those reports. We may not obtain analyst coverage in the future. Any analysts that do cover us may make adverse recommendations regarding our stock, adversely change their recommendations from time to time, and/or provide more favorable relative recommendations about our competitors. If any analyst who may cover us in the future were to cease coverage of our company or fail to regularly publish reports on us, or if analysts fail to cover us or publish reports about us at all, we could lose, or never gain, visibility in the financial markets, which in turn could cause our stock price or trading volume to decline.

***If we fail to maintain an effective system of internal controls, we may not be able to accurately report our financial results or prevent fraud and our stock price may be adversely affected.***

Effective internal controls are necessary for us to provide reliable financial reports and effectively prevent fraud. If we cannot provide reliable financial reports or prevent fraud, our operating results could be harmed. Any system of internal control over financial reporting, regardless of how well designed, operated and evaluated, can provide only reasonable, not absolute, assurance that its objectives will be met. We have experienced material weaknesses in the past and we cannot be certain that in the future material weaknesses or significant deficiencies will not exist or otherwise be discovered. Any weaknesses or deficiencies could result in misstatements of our results of operations, restatements of our consolidated financial statements, inability to timely file periodic reports, a decline in our stock price and investor confidence, or other material effects on our business, reputation, results of operations, financial condition or liquidity.

***Anti-takeover provisions in our charter and bylaws may prevent or frustrate attempts by stockholders to change the board of directors or current management and could make a third-party acquisition of our company difficult.***

Our certificate of incorporation and bylaws contain provisions that may discourage, delay or prevent a merger, acquisition or other change in control that stockholders may consider favorable, including transactions in which stockholders might otherwise receive a premium for their shares. These provisions include the following:

- our certificate of incorporation authorizes our board of directors, without the approval of our stockholders, to establish classes or series of preferred stock with such rights, privileges and preferences as our board determines (i.e., “blank check” preferred stock), including rights that may be senior to those of our common stockholders, which could be used to discourage an unsolicited acquisition proposal;
- our certificate of incorporation provides for a classified board of directors with staggered terms, which could delay or otherwise make it more difficult for an outsider to gain control of our board of directors;
- our certificate of incorporation requires supermajority voting to approve certain amendments to our certificate of incorporation and bylaws;
- our certificate of incorporation prohibits stockholders from acting by written consent or calling a special meeting, which could make it more difficult for stockholders to wage a proxy contest for control of our board of directors or to vote to repeal any of the antitakeover provisions contained in our certificate of incorporation and bylaws;

- our certificate of incorporation provides that directors may only be removed for cause by a supermajority vote of our stockholders; and
- our bylaws contain advance notice provisions with respect to nominees for election to our board of directors.

*If we issue shares of preferred stock, investments in common stock could be diluted or subordinated to the rights of the holders of preferred stock.*

Our board of directors is authorized by our Certificate of Incorporation to establish classes or series of preferred stock and fix the designation, powers, preferences and rights of the shares of each such class or series without any further vote or action by our stockholders. Any shares of preferred stock so issued could have priority over our common stock with respect to dividend or liquidation rights. Further, the issuance of shares of preferred stock, or the issuance of rights to purchase such shares, could be used to discourage an unsolicited acquisition proposal. For instance, the issuance of a series of preferred stock might impede a business combination by including class voting rights that would enable a holder to block such a transaction. In addition, under certain circumstances, the issuance of preferred stock could adversely affect the voting power of holders of our common stock. Although our board of directors is required to make any determination to issue preferred stock based on its judgment as to the best interests of our stockholders, our board of directors could act in a manner that would discourage an acquisition attempt or other transaction that some, or a majority, of our stockholders might believe to be in their best interests or in which such stockholders might receive a premium for their stock over the then-market price of such stock. Presently, our board of directors does not intend to seek stockholder approval prior to the issuance of currently authorized preferred stock, unless otherwise required by law or applicable stock exchange rules. Although we have no plans to issue any additional shares of preferred stock or to adopt any new series, preferences or other classification of preferred stock, any such action by our board of directors or issuance of preferred stock by us could dilute your investment in our common stock and warrants or subordinate your holdings to such shares of preferred stock.

**ITEM 1B. UNRESOLVED STAFF COMMENTS.**

None

**ITEM 2. PROPERTIES.**

Our headquarters are located at 2000 University Avenue, Suite 600, East Palo Alto, CA 94303, which we lease pursuant to a lease entered into in June 2018. The lease term ends June 2023.

We believe that the facilities described above are suitable and adequate for our present purposes and needs in the near future.

**ITEM 3. LEGAL PROCEEDINGS**

See "NOTE 8 - Litigation, Claims, and Assessments" to our Consolidated Financial Statements.

**ITEM 4. MINE SAFETY DISCLOSURES.**

None

**PART II**

**ITEM 5. MARKET FOR REGISTRANT'S COMMON EQUITY, RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES.**

**Market Information**

Not applicable.

**Holders**

As of March 1, 2020, there were approximately 37 holders of record of our common stock. As many of our shares of common stock are held by brokers and other institutions on behalf of stockholders, we are unable to estimate the total number of stockholders represented by these record holders.

**Dividend Policy**

We have not paid any cash dividends on our common stock to date. The payment of dividends in the future will be contingent upon our revenues and earnings, if any, capital requirements and general financial condition, and will be within the discretion of our then-existing board of directors.

**Recent Sales of Unregistered Securities**

Not applicable.

**Purchases of Equity Securities by the Issuer and Affiliated Purchasers**

Not applicable.

**ITEM 6. SELECTED FINANCIAL DATA.**

We are a smaller reporting company as defined by Rule 12b-2 of the Securities Exchange Act of 1934 and are not required to provide the information under this item.

## ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS.

*The following discussion and analysis of our financial condition and results of operations should be read in conjunction with our consolidated financial statements and related notes appearing elsewhere in this Annual Report on Form 10-K. In addition to historical information, this discussion and analysis contains forward-looking statements that involve risks, uncertainties and assumptions. Our actual results may differ materially from those anticipated in these forward-looking statements as a result of certain factors, including but not limited to, those set forth under "Risk Factors" and elsewhere in this Annual Report on Form 10-K. See Cautionary Statement Regarding Forward-Looking Statements."*

Our Management's Discussion and Analysis of Financial Condition and Results of Operations ("MD&A") is organized as follows:

**Overview.** A discussion of our business and overall analysis of financial and other highlights in order to provide context for the remainder of MD&A.

**Significant Developments.** We highlight significant developments in our business and operations during the past year.

**Industry Trends & Outlook.** A discussion of notable industry trends and how such trends might affect our business and operations as well as an outlook on developments we see on the horizon.

**Comparability to Future Results.** We discuss areas of our historical business and operations that may not be indicative of future results.

**Results of Operations.** A discussion of the nature and trends in our financial results and an analysis of our financial results comparing fiscal 2019 to 2018, and 2018 to 2017.

**Liquidity and Capital Resources.** An analysis of changes in our balance sheets and cash flows, and a discussion of our financial condition and our ability to meet cash needs.

**Contractual Obligations.** An overview of our contractual obligations outstanding as of December 31, 2019, including expected payment schedules.

**Critical Accounting Policies and Estimates.** A discussion of our accounting policies that require critical estimates, assumptions, and judgments.

**Recent Accounting Pronouncements.** A discussion of expected impacts of impending accounting changes on financial information to be reported in the future.

## Overview

We operate a cybersecurity business, focused on licensing and enforcement, developing mobile security applications, and investing in emerging cybersecurity technologies and intellectual property.

We operate our cybersecurity business through our wholly-owned subsidiaries including, Finjan, Finjan Blue, and Finjan Mobile.

Through Finjan, we own a portfolio of patents, related to software and hardware technologies that proactively detect malicious code and thereby protect end users from identity and data theft, spyware, malware, phishing, trojans and other web and network threats. Founded in 1997, Finjan developed and patented technologies that are capable of detecting previously unknown and emerging threats on a real-time, behavior-based, basis, in contrast to signature-based methods of intercepting only known threats to computers. The older signature-based methods, were standard in the web and network security industry during the 1990s. As the web and endpoint security industries - known as cybersecurity - have transitioned to behavior-based detection of malicious code, we believe that our patented technologies continue to be widely used by third parties in a number of market segments. We intend to maximize the economic benefits of our technologies through further licensing and to broaden our technologies and patent holdings through acquisitions and strategic partnerships.

As a core element of our continued patent licensing and enforcement business, our management team, having expertise with technology and IP monetization, monitors a number of markets and assesses and observes the adoption of our patented technologies in these markets. Our management team, in conjunction with outside legal, technical, and financial experts concludes on a case-by-case basis whether or not they believe that Finjan's patented technologies are being used. Based on these observations, we continue to believe our patented technologies are highly relevant in specific cybersecurity technology areas including, but not limited to, endpoint/cloud software, web gateway/internet infrastructure, and networking equipment markets. From that basis, we pursue unlicensed entities through licensing, assertion of claims or both to preserve the value of our portfolio in general. This also reinforces the value to existing licensees of the Finjan patent portfolio.

Since the sale of our hardware and software operations in 2009, our primary source of income and related cash flows has been the enforcement of its patent rights against unauthorized use and to a lesser extent, income derived from intellectual property licenses granted to third parties for the use of patented technologies that are owned by Finjan.

Finjan Blue was founded to support our development and licensing efforts of the IBM Security Patents obtained by Finjan Blue through the Patent Assignment and Support Agreement and the May 2018 Patent Assignment Agreement with IBM. The Agreements, the terms of which are confidential, includes pathways for Finjan and IBM to consider development efforts in the future and provides for the sharing of pertinent institutional knowledge and resources by IBM to Finjan Blue.

Finjan Mobile was founded to ensure that mobile devices are protected against spies, phishing and malware attacks. Given the uptrend in mobile device usage coupled with the amount of transient corporate data, the average mobile user presents and represents higher risks of data loss through hacking. The mobile device has become so convenient that consumers often ignore online security and download apps and blindly agree to terms of service, purchase products, pay bills, connect to free Wi-Fi, and not think twice about personal data and photos stored on their devices. We started research and development of security products for mobile devices which benefit from technologies developed and patented by Finjan but also include the invention of new mobile technologies that will help expand our existing patent portfolio. Products currently available include our Finjan Mobile Secure Browser and a Virtual Private Network (VPN), re-branded as InvinciBull, which can be used within the Finjan Browser or separately to encrypt data and keep consumers' data secure.

As of December 31, 2019, we had 9 employees. We intend to hire or engage additional full-time professionals, employees, and/or consultants in alignment with our growth strategy. Although the market is highly competitive for attracting and retaining highly qualified professionals in our industry, we continue our endeavor to find such candidates for our Company. Our management team and additional personnel that we may hire in the future will be primarily responsible for executing and implementing our licensing and enforcement strategy, including analyzing licensing and enforcement opportunities, making tactical decisions related to our strategy, identifying new applications for our existing cybersecurity technologies and pursuing opportunities to invest in new technologies through strategic partnerships and acquisitions.

## Significant Developments During 2019

### *Settlements with:*

#### ***Mimecast***

In October 2019, The Company entered into a Confidential Patent License Agreement with Mimecast. As part of the Mimecast License Agreement, the Mimecast Parties will obtain a license to, among others, the patents of Finjan, Finjan Mobile, and Finjan Blue, and paid Finjan \$5.9 million in cash. The remaining terms of the Mimecast License Agreement and the Letter Agreement are confidential.

#### ***Zscaler***

In May 2019, The Company and Zscaler entered into a License and Settlement Agreement. Specifically, the parties have resolved and settled all claims between them. As part of the settlement and pursuant to the License and Settlement Agreement and related agreements, the Zscaler Parties obtained a license to, among others, the patents of the Finjan Parties and paid Finjan \$7.25 million in cash. The remaining terms of the License and Settlement Agreement and related agreements are confidential.

### ***Appointment of Chief Financial Officer***

In June, 2019 Jevan Anderson joined the Company as Chief Financial Officer, replacing Michael Noonan who departed to explore new pursuits. Mr. Anderson reports to the Company's CEO, and leads our finance and operations. Mr. Anderson has 25 years of experience in investment banking, corporate development and strategy consulting. Most recently Jevan was Senior Vice President, Corporate Advisory for Jones Lang LaSalle Incorporated ("JLL"). Prior to JLL, Jevan spent 10 years as a Managing Director and Co-Head of Technology Mergers & Acquisitions for Wells Fargo and RBC Capital Markets. Prior to his 17 year investment banking career, Jevan held roles in management consulting, strategic planning, corporate development and investor relations. Mr. Anderson holds an MBA from NYU Stern School of Business and a B.S. in Electrical Engineering from Lehigh University.

### ***JVP***

The Company completed the sale of its limited partnership interest in JVP, pursuant to a Partnership Interest Purchase Agreement (the "Purchase Agreement") dated December 31, 2019. In connection with the sale, the Company received \$3.5 million in cash, in addition to the distribution from the fund in 2015 of \$1.3 million. The Company's remaining \$1.1 million capital commitment to the JVP Fund was assumed by the purchasers pursuant to the Purchase Agreement. The remaining terms of the Purchase Agreement are confidential.

### ***Inter Partes Reviews***

See "NOTE 8 - Litigation, Claims, and Assessments" to our Consolidated Financial Statements.

### ***Patent Litigations***

See "NOTE 8 - Litigation, Claims, and Assessments" to our Consolidated Financial Statements.

## **Industry Trends and Outlook**

Cybersecurity has been a very active sector in 2019 and we believe this trend will continue in 2020. Cybersecurity is not just another technology but a critical business issue that intersects government, corporations and individual citizens. We have recently seen a number of devastatingly successful cybersecurity breaches targeting high profile government offices and corporations. The full extent of the cost and damage associated with these attacks may not be known for some time. Nonetheless, these attacks are expected to continue, along with their associated and sometimes unprecedented costs. In many cases, it is not just the government or corporation that suffers losses or damages but their clients and customers, who can also fall victim by the breach of their personal and otherwise confidential data. These issues have forced both government and corporations to take a serious look at their vulnerabilities, which will lead to increased spending on cybersecurity infrastructure, including hardware and software, as well as cybersecurity consulting services.

Given over 20 years of history in the cybersecurity market we have had the benefit of actively participating in the progression on how technology has moved to meet the new threats and demands. We believe this puts us in a unique position to make observations and determine the best course of action in order to make investments in new developing technologies. There is still a limited appreciation for how much personal data is being pushed out over the internet for anyone to capture and unlike

desktops and laptop computers, mobile devices do not have the same kind of access to security. We believe this represents a unique opportunity for Finjan to develop products for consumer mobile devices that were once only available to our enterprise customers. As such, we are building upon our current patented technology and migrating it into the mobile platform so consumers can have greater control of their security and personal information.

We believe that there are some proponents of patent law reform, largely made up of an individual or coalitions of technology corporations that continue to seek statutory limitations on how companies can enforce their patents. In an effort to ensure fair and balanced protections for all good faith patent owners, our executives have dedicated time and resources to actively educate our lawmakers and existing and prospective stakeholders on how certain proposed reforms could harm individual inventors, startups, small companies, the licensing industry and therefore, U.S. innovation and the economy as a whole.

Further, since the enactment of the AIA on September 16, 2011, several aspects of the patent law have been interpreted by the courts, including what constitutes patentable subject matter, inducement of infringement, and (attorney) fee-shifting to the non-prevailing party in the context of litigation, among other issues. Moreover, under AIA, patents previously granted by the USPTO may be reviewed through post-patent grant proceedings such as reexamination or IPR. It is becoming a trend, if not a practice, for accused infringers to petition for reexaminations or IPRs of asserted patents as these proceedings may give the petitioner “two bites at the apple.” The outcome of the proceedings can range from decisions favorable to the patent holder, favorable to both parties, or favorable to the petitioner. If the outcome is the latter, the value of the challenged patent can be materially reduced or extinguished. Thus, patent rights, including enforcement of such rights against unauthorized use is inherently subject to uncertainties.

#### **Comparability to Future Results**

We have set forth below selected factors that we believe have had, or can be expected to have, a significant effect on the comparability of our recent or future results. In addition to the factors described below, please see Item 1A. “Risk Factors” for additional factors that may affect our operating results.

#### ***Fluctuations of Income, Expenses and Cash Flows Related to Licensing and Enforcement***

Our licenses and judgments may not be recurring and are not necessarily indicative of the income or cash flows that we expect to generate in the future from our existing technology portfolio or otherwise. We expect income, expenses and cash flows related to patent enforcement to be unpredictable and to fluctuate significantly from period to period. A number of factors, many of which are beyond our control, may affect the timing and amount of our income and cash flows related to patent licensing and enforcement actions, including, but not limited to, trial dates, the strength of our claims and likelihood of achieving an acceptable license on settlement, the timing and nature of any appeals and our ability to collect on any favorable judgments. Significant fluctuations in our income and cash flows may make our business difficult to manage and adversely affect our business and operating results. We do not recognize income from our licensing and enforcement actions until the terms are fixed and determinable or litigation is finalized (whether resolved at trial or in a settlement).

Our expenses, principally with respect to litigation costs, may also vary significantly from period to period depending upon a number of factors, including, but not limited to, whether fees of outside legal counsel are paid on an hourly, contingent or other basis, the timing of depositions, discovery and other elements of litigation, costs of expert witnesses and other consultants, and other costs incurred in support of enforcement actions.

As a result of the factors described above and other known and unknown risks affecting our business, our historical operating performance may not be indicative of our future results.

#### ***Stock-Based and Other Executive Compensation***

Our Board of Directors has adopted the Finjan Holdings Amended and Restated 2014 Incentive Compensation Plan (“2014 Restated Plan”), which our shareholders approved at our 2014 annual meeting of stockholders on July 10, 2014, pursuant to which 2,196,836 shares of common stock are authorized for issuance and on June 21, 2017, at our 2017 annual meeting of stockholders, our shareholders approved (i) an increase of 1,000,000 shares to the Finjan Holdings, Inc. Restated 2014 Plan and (ii) the addition of an “evergreen” feature which provides for the annual replenishment of shares to the Restated 2014 Plan share reserve without stockholder approval (equal to 5.0% of our outstanding shares of Common Stock as of the end of our immediately preceding fiscal year). A total of 486,135 restricted stock units and 2,356,197 options remain outstanding as of December 31, 2019, under the Restated 2014 Plan. We expect that future equity-based awards will continue to be made under the Restated 2014 Plan to our directors, officers and other employees. As a result, to the extent relevant, we may incur non-cash, stock-based compensation expenses in future periods that may not be comparable to past periods.

We expect to increase the number of employees to help execute our strategy in the cybersecurity business and support our public company functions. Accordingly, we will continue to incur compensation expenses in future periods that we did not incur during the historical periods presented in our financial statements.

## Results of Operations

We operate a cybersecurity business, focused on licensing and enforcement, providing advisory services, developing mobile security applications, and investing in emerging cybersecurity technologies and intellectual property. The following table summarizes our results of operations for the periods presented and as a percentage of our total revenue for those periods based on our consolidated statement of operations data. The year to year comparison of results of operations is not necessarily indicative of results of operations for future periods.

	For the Years Ended December 31,					
	2019		2018		2017	
	Amount	% of Revenue	Amount	% of Revenue	Amount	% of Revenue
	(In millions, except percentages)					
Revenues	\$ 13.2	100 %	\$ 82.3	100 %	\$ 50.5	100 %
Cost of revenues	1.9	14 %	15.3	19 %	6.0	12 %
Gross profit	11.3	86 %	67.0	81 %	44.5	88 %
Operating expenses:						
Selling, general and administrative <sup>(1)</sup>	31.7	240 %	32.2	39 %	28.6	57 %
Research and development	2.0	15 %	2.1	2 %	1.5	3 %
Total operating expenses	33.7	255 %	34.3	41 %	30.1	60 %
Other income (expense)	(0.3)	(2) %	(4.0)	(5) %	2.2	4 %
Income (loss) before income taxes	(22.7)	(172) %	28.7	35 %	16.6	33 %
Income tax provision (benefit)	(6.2)	(47) %	8.0	10 %	(6.2)	(12) %
<b>Net income (loss)</b>	<b>\$ (16.5)</b>	<b>(125) %</b>	<b>\$ 20.7</b>	<b>25 %</b>	<b>\$ 22.8</b>	<b>45 %</b>
<sup>(1)</sup> Includes stock based compensation	\$ 1.0	8 %	\$ 1.6	2 %	\$ 0.8	2 %

Year ended December 31, 2019 compared with the year ended December 31, 2018:

	For the Years Ended December 31,			
	2019	2018	Change	% Change
	(In millions, except percentages)			
Revenues	\$ 13.2	\$ 82.3	\$ (69.1)	(84) %
Cost of revenues	1.9	15.3	(13.4)	(88) %
Gross profit	11.3	67.0	(55.7)	(83) %
Gross margin	86 %	81 %		
Operating expenses:				
Selling, general and administrative	31.7	32.2	(0.5)	(2) %
Research and development	2.0	2.1	(0.1)	(5) %
Total operating expenses	33.7	34.3	(0.6)	(2) %
Other expense	(0.3)	(4.0)	3.7	(93) %
Income (loss) before income taxes	(22.7)	28.7	(51.4)	(179) %
Income tax provision (benefit)	(6.2)	8.0	(14.2)	(178) %
Net income (loss)	\$ (16.5)	\$ 20.7	\$ (37.2)	(180) %

Revenue in 2019 is derived from license agreements that we entered into with third-parties following negotiations pursuant to our patent licensing and enforcement program. The revenue decrease is primarily due to timing of revenues, as further described in "Item 1. Business" - "Licensing and Enforcement - Current Activities, Post 2013".

Cost of revenues includes contingent legal fees directly associated with our licensing and enforcement programs. Cost of revenues primarily decreased in proportion to the decrease in revenues.

Operating expenses consists of sales and marketing, general and administrative, and research and development. Selling, general and administrative expenses ("SG&A") consisted primarily of legal fees incurred in operations and employee headcount related expenses. These comprise approximately 60% of total SG&A expense. Litigation expenses increased \$3.0 million to \$19.4 million in 2019 compared to 2018 and are primarily due to the timing of various outstanding litigation actions. See "Item 3. Legal Proceedings". Employee headcount related expenses decreased \$2.0 million to \$3.6 million in 2019 compared to 2018, primarily due to lower incentive bonuses.

Research and development expense remained flat between years.

Other expense decreased in 2019 as we no longer have exposure from the warrant liability, and included \$0.7 million related to the sale of our investment in JVP, offset by \$0.3 million of net interest income.

Income tax provision (benefit) is primarily a function of income (loss) before income, state income tax expense (benefit) and federal benefit of foreign derived intangible tax benefit related to 2018.

Year ended December 31, 2018 compared with the year ended December 31, 2017:

	For the Years Ended December 31,			
	2018	2017	Change	% Change
	(In millions, except percentages)			
Revenues	\$ 82.3	\$ 50.5	\$ 31.8	63 %
Cost of revenues	15.3	6.0	9.3	155 %
Gross profit	67.0	44.5	22.5	51 %
Gross margin	81 %	88 %		
Operating expenses:				
Selling, general and administrative	32.2	28.6	3.6	13 %
Research and development	2.1	1.5	0.6	40 %
Total operating expenses	34.3	30.1	4.2	14 %
Other income (expense)	(4.0)	2.2	(6.2)	(282) %
Income before income taxes	28.7	16.6	12.1	73 %
Income tax provision (benefit)	8.0	(6.2)	14.2	(229) %
Net income	\$ 20.7	\$ 22.8	\$ (2.1)	(9) %

Revenue in 2018 is derived from multiple license agreements that we entered into with third-parties following negotiations pursuant to our patent licensing and enforcement program. The revenue increase is primarily due to licensing revenues, as further described in "Item 1. Business" - "Licensing and Enforcement - Current Activities, Post 2013".

Cost of revenues includes contingent legal fees directly associated with our licensing and enforcement programs. Cost of revenues increased largely in proportion to increase in revenues.

Selling, general and administrative expenses ("SG&A") consisted primarily of legal fees incurred in operations and employee headcount related expenses. These comprise approximately 74% of total SG&A expense. Litigation expenses increased \$4.2 million to \$16.5 million in 2018 compared to 2017 and are primarily due to the timing of various outstanding litigation actions. See "Item 3. Legal Proceedings". Employee headcount related expenses increased \$1.8 million to \$7.2 million in 2018 compared to 2017, and is primarily due to incentive bonuses earned during the year. The balance of SG&A expenses include consulting, other professional services, facilities and other administrative fees and expenses.

Research and Development expenses ("R&D") are primarily from our Finjan Mobile security business and increased by \$0.6 million to \$2.1 million in 2018 compared to 2017, as we continue to position this business for future growth.

Other income (expense) is primarily due to changes in the fair value of the warrant liability of \$3.4 million in 2018 versus a benefit of \$2.2 million in 2017, and interest expense of \$0.6 million in 2018, net.

We recognized an income tax expense of \$8.1 million on pre-tax income of \$28.7 million in 2018 as compared to a benefit from the reduction in the valuation allowance of \$6.2 million in 2017.

## Liquidity and Capital Resources

As of December 31, 2019, we had approximately \$36.1 million of cash and cash equivalents and short term investments, a decrease of approximately \$7.2 million from \$43.3 million in 2018.

During 2018, our board of directors authorized the repurchase of issued and outstanding shares of our common stock having an aggregate value of up to \$10.0 million pursuant to a share repurchase program. No shares were repurchased under this program in 2019. As of December 31, 2019, we have a remaining authorization of \$8.0 million for future share repurchases.

In 2013, we made a \$5 million commitment to invest in an innovation fund through JVP to invest in early-stage cyber technology companies. We sold our interest in JVP in December 2019. There is no further commitment remaining.

	December 31,	
	2019	2018
	(in thousands)	
Cash & cash equivalents	\$ 18,304	\$ 32,011
Short term investments	17,779	11,303
	\$ 36,083	\$ 43,314

*Cash flows for the year ended December 31, 2019, 2018 and 2017*

	For the Years Ended December 31,		
	2019	2018	2017
	(in thousands)		
Net cash provided by (used in) operating activities	\$ (9,885)	\$ 25,601	\$ 16,586
Net cash used in investing activities	\$ (3,822)	(13,203)	(1,873)
Net cash provided by (used in) financing activities	\$ —	(21,556)	12,778

**Operating Activities:** Net cash used in operating activities was \$9.9 million for the year ended December 31, 2019 and is comprised of \$16.5 million in net loss, \$4.5 million change in deferred income taxes and \$0.7 million loss from the sale of the investment in JVP offset by \$1.0 million in stock based compensation, \$2.0 million in depreciation and amortization and \$7.1 million, primarily changes in net operating assets and liabilities.

Net cash provided by operating activities was \$25.6 million for the year ended December 31, 2018 and is comprised of \$20.7 million in net income, \$1.6 million in stock-based compensation, \$1.8 million in depreciation and amortization, \$3.4 million change in warrant liability and a change in deferred income taxes of \$2.5 million, offset by a \$4.4 million change in net operating assets and liabilities.

Net cash provided by operating activities was \$16.6 million for the year ended December 31, 2017 and is comprised of \$22.8 million in net income, \$0.8 million in stock-based compensation, \$0.8 million in depreciation and amortization, \$0.6 million change in net operating assets and liabilities, offset by \$2.2 million change in the warrant liability and a change in deferred income taxes of \$6.2 million.

**Investing Activities:** During the year ended December 31, 2019, cash used in investing activities of \$3.8 million was related to purchases of marketable securities of \$24.5 million, purchases of property and equipment of \$0.4 million and purchase of additional investment in JVP of \$0.7 million offset by redemptions of marketable securities of \$18.3 million and \$3.5 million from the sale of our interest in JVP.

During the year ended December 31, 2018, cash used in investing activities of \$13.2 million was related to purchase of investments of \$11.3 million, the purchase of assets under the May 2018 Patent Assignment Agreement of \$1.0 million and a \$0.9 million investment in the JVP fund.

During the year ended December 31, 2017, cash used in investing activities of \$2.0 million was related to the purchase of assets under the first Patent Assignment Agreement, offset by \$0.1 million in cash distribution received from our investment in the JVP fund.

**Financing Activities:** During the year ended December 31, 2019, we did not have any activity related to financing.

During the year ended December 31, 2018, net cash used in financing activities of \$21.6 million was primarily from the redemption of Series A-1 Preferred Stock totaling \$19.9 million, \$2.0 million related to the share repurchase program, offset by \$0.3 million of proceeds received from the exercise of stock options.

During the year ended December 31, 2017, net cash provided by financing activities of \$12.8 million was primarily from the issuance of Series A-1 Preferred Stock totaling \$14.4 million and a Common Share offering for \$12.0 million, offset by redeeming and retiring Series A Preferred Stock Financing of \$13.8 million.

### Contractual Obligations

The following table summarizes, as of December 31, 2019, our contractual obligations over the next five years for the property lease entered into during the year ended 2018, the VPN arrangement with Avira and the asset purchase from IBM:

Contractual Obligations	Payments due by Period (In thousands)		
	Less Than 1 Year	2-5 Years	Total
Operating Lease Obligations:	\$ 773	\$ 2,055	\$ 2,828
Other Long-Term Liabilities:			
Finjan Mobile future commitment	650	—	650
Finjan Blue future commitment	2,000	2,000	4,000
<b>Total</b>	<b>\$ 3,423</b>	<b>\$ 4,055</b>	<b>\$ 7,478</b>

### Critical Accounting Policies and Estimates

The discussion and analysis of our financial condition and results of operations are based on our consolidated financial statements, which have been prepared in accordance with accounting principles generally accepted in the United States, or “U.S. GAAP.” The preparation of these financial statements in accordance with U.S. GAAP requires us to make estimates, assumptions and judgments that affect the reported amounts of assets, liabilities, revenues and expenses, and related disclosure of contingent assets and liabilities. On an on-going basis, we evaluate our estimates, assumptions and judgments, including those related to revenue recognition, bad debts, inventories, warranties and income taxes. We base our estimates on historical experience and on various other assumptions that we believe to be reasonable under the circumstances, the results of which form the basis for making judgments about the carrying values of assets and liabilities and our revenue recognition. Actual results may differ from these estimates under different assumptions or conditions and the impact of such differences may be material to our consolidated financial statements.

Critical accounting policies are those policies that, in management’s view, are most important in the portrayal of our financial condition and results of operations. The methods, estimates and judgments that we use in applying our accounting policies have a significant impact on the results that we report in our financial statements. These critical accounting policies require us to make difficult and subjective judgments, often as a result of the need to make estimates regarding matters that are inherently uncertain. Those critical accounting policies and estimates that require the most significant judgment are discussed further below. We consider our most critical accounting policies and estimates to be revenue recognition, gain on settlements, valuation of long lived assets, income taxes and valuation allowances against net deferred tax assets, derivative liabilities, stock based compensation and accounting for business combinations-acquisition method accounting.

### Revenue Recognition

Revenue is recognized when a customer obtains control of promised goods and services. The amount of revenue recognized reflects the consideration to which the Company expects to be entitled to receive in exchange for these goods and services.

The core principle of the standard is that we should recognize revenue to depict the transfer of promised goods or services to customers in an amount that reflects the consideration to which we expect to be entitled in exchange for those goods or services. To achieve that core principle, we apply the following five step model:

- Identify the contract with the customer;
- Identify the performance obligations in the contract;
- Determine the transaction price;
- Allocate the transaction price to the performance obligations in the contract; and
- Recognize revenue when (or as) each performance obligation is satisfied.

Revenue from our cybersecurity business results from grants of licenses to its patented cybersecurity technology and settlements reached from legal enforcement of our patent rights. Revenue is recognized upon execution of the agreement, including any future dated payments, which often spread over several quarters or years.

Depending on the complexity of the underlying revenue arrangement and related terms and conditions, significant judgments, assumptions and estimates may be required to determine when substantial delivery of contract elements has occurred, whether any significant ongoing obligations exist subsequent to contract execution, whether amounts due are collectible and the appropriate period or periods in which, or during which, the completion of the earnings process occurs. Depending on the magnitude of specific revenue arrangements, if different judgments, assumptions and estimates are made regarding contracts executed in any specific period, our periodic financial results may be materially affected.

Monetization of patented technologies by licensing through a negotiated agreement and/or enforcement of such patented technologies by a court of law is the main source of our income. Licenses achieved by ordinary business negotiations where a fair value of the license is determined by us is recognized as revenue. Due to our unique business, it is often necessary to file patent infringement litigation against users of our patented technologies as part of the licensing and enforcement activities. We may enter into certain settlements of patent infringement disputes once litigation commences. The amount of consideration received upon any settlement or judgment is allocated to each element of the settlement based on the fair value of each element using the residual method. Elements with fair values related to licensing agreement, royalty revenues, net of contingent legal fees, are recognized as revenue. When we are unable to determine the fair value of a license agreement or a settlement, the value of the license agreement or settlement is recognized as contra expense or gain on settlements in other income.

#### ***Stock-based Compensation Expense***

Stock-based compensation payments to employees and directors are recognized as expense in the statements of income. The compensation cost for all stock-based awards is measured at the grant date, based on the fair value of the award (determined using a Black-Scholes option pricing model for stock options and intrinsic value on the date of grant for non-vested restricted stock), and is recognized as an expense over the employee's requisite service period (generally the vesting period of the equity award). Determining the fair value of stock-based awards at the grant date requires significant estimates and judgments, including estimating the market price volatility of our common stock, future employee stock option exercise behavior and requisite service periods.

Stock-based compensation expense is recorded only for those awards expected to vest using an estimated pre-vesting forfeiture rate. As such, we are required to estimate pre-vesting option forfeitures at the time of grant and reflect the impact of estimated pre-vesting option forfeitures on compensation expense recognized. Estimates of pre-vesting forfeitures must be periodically revised in subsequent periods if actual forfeitures differ from those estimates. We consider several factors in connection with our estimate of pre-vesting forfeitures, including types of awards, employee class, and historical pre-vesting forfeiture data. The estimation of stock awards that will ultimately vest requires judgment, and to the extent that actual results differ from our estimates, such amounts will be recorded as cumulative adjustments in the period the estimates are revised.

#### **Off-Balance Sheet Arrangements**

In connection with our Distribution Agreement with Avira, we have approximately \$0.7 million outstanding, which is payable quarterly, with a final payment due April 1, 2020.

#### **Recent Accounting Pronouncements**

See "NOTE 2 - Summary of significant accounting policies, - Recently issued accounting pronouncements"

**ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK.**

Our exposure to market risk for changes in interest rates relates primarily to our holdings of cash and cash equivalents and short term investments. Our cash and cash equivalents and short term investments as of December 31, 2019, totaled \$36.1 million and consisted primarily of cash and money market funds with original maturities of three months or less from the date of purchase. Our primary exposure to market risk is interest income sensitivity, which is affected by changes in the general level of the interest rates in the United States. However, because of the short-term nature of the instruments in our portfolio, a sudden change in market interest rates of 10% would not be expected to have a material impact on our financial condition or results of operations. We do not have any foreign currency or other derivative financial instruments.

**ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA.**

The consolidated financial statements and supplementary data of the Company required by this Item are described in Item 15 of this Annual Report on Form 10-K and are presented beginning on page F-1.

**ITEM 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE.**

None.

**ITEM 9A. CONTROLS AND PROCEDURES.**

We carried out an evaluation, under the supervision and with the participation of our management, including our Chief Executive Officer and Chief Financial Officer, of the effectiveness of the design and operation of our disclosure controls and procedures, as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended (the “Exchange Act”), as of the end of the period covered by this report. Based on our evaluation, our Chief Executive Officer and Chief Financial Officer concluded that our disclosure controls and procedures were effective, as of December 31, 2019, to provide reasonable assurances that information required to be disclosed in reports that we file or submit under the Exchange Act is recorded, processed, summarized and reported accurately and within the time periods specified in the Securities and Exchange Commission rules and forms and accumulated and communicated to our management, including our Chief Executive Officer and Chief Financial Officer, as appropriate to allow timely decisions regarding required disclosure.

***Management’s Annual Report on Internal Control over Financial Reporting***

Our management is responsible for establishing and maintaining adequate internal control over financial reporting, as defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act. Our internal control over financial reporting includes those policies and procedures that:

- pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of our assets
- provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that our receipts and expenditures are being made only in accordance with authorizations of our management and directors; and
- provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of our assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

Our management assessed the effectiveness of our internal control over financial reporting of operations as of December 31, 2019. In making this assessment, management used the criteria in Internal Control—Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (2013 framework) (“COSO”). Based on this assessment, our management concluded that, as of December 31, 2019, our internal controls over financial reporting were effective.

This Annual Report on Form 10-K does not include an audit or attestation report from our registered public accounting firm regarding our internal control over financial reporting. Our management's report was not subject to audit or attestation by our registered public accounting firm since we are not an accelerated filer or a large accelerated filer as defined in Rule 12b-2 under the Securities Exchange Act of 1934.

***Changes in Internal Control over Financial Reporting***

There were no changes in our internal control over financial reporting (as such term is defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act) identified in connection with the evaluation required by Rule 13a-15(d) and 15d-15(d) of the Exchange Act that occurred during the fourth quarter of the year ended December 31, 2019 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

**ITEM 9B. OTHER INFORMATION**

None.

**PART III**

**ITEM 10. DIRECTORS, EXECUTIVE OFFICERS AND CORPORATE GOVERNANCE**

The information required by this item regarding directors, executive officers and corporate governance is hereby incorporated by reference to the material appearing in the Proxy Statement for the Annual Stockholders Meeting to be held in 2020 (the "Proxy Statement") under the caption "Directors, Management and Corporate Governance." The information required by this item regarding compliance with Section 16(a) of the Exchange Act, is hereby incorporated by reference to the material appearing in the Proxy Statement under the caption "Section 16(a) Beneficial Ownership Reporting Compliance." The information required by this Item 10 with respect to the availability of our code of ethics is provided in Item 1 of this Annual Report on Form 10-K. See "Item 1. Business — Corporate Information."

**ITEM 11. EXECUTIVE COMPENSATION**

The information required by this item is hereby incorporated by reference to the material appearing in the Proxy Statement under the caption "Executive Compensation."

**ITEM 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS**

The information regarding security ownership of certain beneficial owners and management required by this item is hereby incorporated by reference to the material appearing in the Proxy Statement under the captions "Voting Securities of Certain Beneficial Owners and Management" and "Executive Compensation—Outstanding Equity Awards at Fiscal Year End."

**ITEM 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS, AND DIRECTOR INDEPENDENCE**

The information required by this item is hereby incorporated by reference to the material appearing in the Proxy Statement under the captions "Certain Relationships and Related Transactions" and "Directors, Management and Corporate Governance—Director Independence."

**ITEM 14. PRINCIPAL ACCOUNTING FEES AND SERVICES**

The information required by this item is hereby incorporated by reference to the material appearing in the Proxy Statement under the caption "Proposal 3 – Ratification of Appointment of Independent Registered Public Accounting Firm – Disclosure of Marcum LLP Fees for the Years Ended December 31, 2019, 2018 and 2017" and "- Pre-Approval Policies and Procedures."

**PART IV****ITEM 15. EXHIBITS AND FINANCIAL STATEMENT SCHEDULES.**

<b>Exhibit Number</b>	<b>Exhibit Description</b>
3.1	<a href="#">Amended and Restated Certificate of Incorporation of the Company, effective July 10, 2014 (incorporated by reference to Exhibit 3.1 to our current report on Form 8-K filed July 11, 2014)</a>
3.2	<a href="#">Amended and Restated Bylaws, adopted July 10, 2014 (incorporated by reference to Exhibit 3.1 to our current report on Form 8-K filed July 11, 2014)</a>
4.1	<a href="#">Form of Warrant in favor of Soryn HLDR Vehicle II LLC (incorporated by reference to Exhibit 4.1 to our current report on Form 8-K filed on June 20, 2017)</a>
10.1	<a href="#">Form of Registration Rights Agreement, dated as of June 3, 2013, by and between the Company and certain stockholders of the Company (incorporated by reference to Exhibit 10.3 to our current report on Form 8-K filed June 3, 2013)</a>
10.2	<a href="#">Second Amended and Restated Employment Agreement, dated August 1, 2018, between Finjan Holdings, Inc. and Philip Hartstein (incorporated by reference to Exhibit 10.1 to our current report on Form 8-K filed August 3, 2018)#</a>
10.3	<a href="#">Second Amended and Restated Employment Agreement, dated August 1, 2018, by and between the Company and Julie Mar-Spinola (incorporated by reference to Exhibit 10.2 to our current report on Form 8-K filed August 3, 2018)#</a>
10.4	<a href="#">Employment Agreement, dated June 1, 2019, between Finjan Holdings, Inc. and Jevan Anderson (incorporated by reference to Exhibit 10.1 to our current report on Form 8-K filed May 22, 2019).#</a>
10.5	<a href="#">Finjan Holdings, Inc. 2013 Global Share Option Plan (incorporated by reference to Exhibit 10.7 to our current report on Form 8-K filed June 3, 2013)#</a>
10.6	<a href="#">Form of Option Award under the Finjan Holdings, Inc. 2013 Global Share Option Plan (incorporated by reference to Exhibit 10.8 to our annual report on Form 10-K filed March 14, 2014)#</a>
10.7	<a href="#">Finjan Holdings, Inc. Amended and Restated 2014 Incentive Compensation Plan, dated July 10, 2014, as amended and restated June 21, 2017*#</a>
10.8	<a href="#">Form of Finjan Holdings, Inc. 2014 Incentive Compensation Plan Restricted Stock Unit Agreement (incorporated by reference to Exhibit 10.2 to our quarterly report on Form 10-Q filed August 11, 2014)#</a>
10.9	<a href="#">Form of Finjan Holdings, Inc. 2014 Incentive Compensation Plan Non-Qualified Stock Option Agreement (incorporated by reference to Exhibit 10.3 to our quarterly report on Form 10-Q filed August 11, 2014)#</a>
10.10	<a href="#">Summary of Director Compensation (incorporated by reference to our Current Report on Form 8-K filed April 8, 2014)#</a>
10.11	<a href="#">Summary of 2017 Executive Incentive Compensation Plan (incorporated by reference to our Current Report on Form 8-K filed March 28, 2017)#</a>
10.12	<a href="#">Finjan Holdings, Inc. Israeli Appendix to the 2014 Incentive Compensation Plan (incorporated by reference to Exhibit 10.1 to our Current Report on Form 8-K filed June 26, 2015)#</a>
10.13	<a href="#">Form of Israeli Option Award Agreement (incorporated by reference to Exhibit 10.2 to our Current Report on Form 8-K filed June 26, 2015)#</a>
10.14	<a href="#">Office Lease Agreement, dated July 5, 2018, between Finjan Holdings, Inc. and Colombia REIT - University Circle, L.P. (incorporated by reference to Exhibit 10.1 to our current report on form 8-K filed August 3, 2018)</a>

Exhibit Number	Exhibit Description
21.1	<a href="#">Subsidiaries of Finjan Holdings, Inc.*</a>
23.1	<a href="#">Consent of Marcum LLP.*</a>
31.1	<a href="#">Certification of Principal Executive Officer pursuant to Exchange Act Rules 13a-14(a) and 15d-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002*</a>
31.2	<a href="#">Certification of Principal Financial Officer pursuant to Exchange Act Rules 13a-14(a) and 15d-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002*</a>
32.1	<a href="#">Certifications of Chief Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002*†</a>
32.2	<a href="#">Certifications of Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002*†</a>
101.INS	XBRL Instance Document*+
101.SCH	XBRL Taxonomy Extension Schema Document*+
101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document*+
101.DEF	XBRL Taxonomy Extension Definition Linkbase Document*+
101.LAB	XBRL Taxonomy Extension Label Linkbase Document*+
101.PRE	XBRL Taxonomy Extension Presentation Linkbase Document*+
*	Filed herewith.
%	Confidential treatment has been obtained with respect to certain omitted portions of this exhibit. Omitted portions have been filed separately with the Securities and Exchange Commission.
†	This certification is being furnished and shall not be deemed “filed” with the SEC for purposes of Section 18 of the Exchange Act, or otherwise subject to the liability of that section, and shall not be deemed to be incorporated by reference into any filing under the Securities Act or the Exchange Act, except to the extent that the registrant specifically incorporates it by reference.
+	Pursuant to Rule 406T of Regulation S-T, the Interactive Data Files in Exhibit 101 hereto are deemed not filed or part of a registration statement or prospectus for purposes of Sections 11 or 12 of the Securities Act of 1933, as amended, are deemed not filed for purposes of Section 18 of the Securities and Exchange Act of 1934, as amended, and otherwise are not subject to liability under those sections.
#	Management contract or compensatory plan or arrangement.

**ITEM 16. FORM 10-K SUMMARY.**

**None.**

**SIGNATURES**

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

**FINJAN HOLDINGS, INC.**

Date: March 4, 2020

By: \_\_\_\_\_  
**Philip Hartstein**  
*President & Chief Executive Officer*  
*(Principal Executive Officer)*

Date: March 4, 2020

By: \_\_\_\_\_  
**Jevan Anderson**  
*Chief Financial Officer & Treasurer*  
*(Principal Financial and Accounting Officer)*

**POWER OF ATTORNEY**

KNOW ALL PERSONS BY THESE PRESENTS, that each person whose signature appears below hereby constitutes and appoints Philip Hartstein and Jevan Anderson, and each of them, jointly and severally, his attorneys-in-fact, each with the power of substitution, for him in any and all capacities, to sign any and all amendments to this Annual Report on Form 10-K and to file the same, with exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, hereby ratifying and confirming all that each of said attorneys-in-fact, or his substitute or substitutes, may do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, this report has been signed below by the following persons on behalf of the registrant and in the capacities and on the dates indicated:

<b>Name</b>	<b>Title</b>	<b>Date</b>
<u>/s/ Eric Benhamou</u> <b>Eric Benhamou</b>	<b>Director</b>	March 4, 2020
<u>/s/ Daniel Chinn</u> <b>Daniel Chinn</b>	<b>Chairman</b>	March 4, 2020
<u>/s/ Glenn Daniel</u> <b>Glenn Daniel</b>	<b>Director</b>	March 4, 2020
<u>/s/ Harry Kellogg</u> <b>Harry Kellogg</b>	<b>Director</b>	March 4, 2020
<u>/s/ Michael Southworth</u> <b>Michael Southworth</b>	<b>Director</b>	March 4, 2020
<u>/s/ Alex Rogers</u> <b>Alex Rogers</b>	<b>Director</b>	March 4, 2020
<u>/s/ Gary Moore</u> <b>Gary Moore</b>	<b>Director</b>	March 4, 2020
<u>/s/ John Greene</u> <b>John Greene</b>	<b>Director</b>	March 4, 2020
<u>/s/ Philip Hartstein</u> <b>Philip Hartstein</b>	<b>President &amp; Chief Executive Officer</b> (Principal Executive Officer)	March 4, 2020
<u>/s/ Jevan Anderson</u> <b>Jevan Anderson</b>	<b>Chief Financial Officer &amp; Treasurer</b> (Principal Financial and Accounting Officer)	March 4, 2020

**FINJAN HOLDINGS, INC.  
CONSOLIDATED FINANCIAL STATEMENTS**

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**REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

**To the Shareholders and Board of Directors of  
Finjan Holdings, Inc.**

**Opinion on the Financial Statements**

We have audited the accompanying consolidated balance sheets of Finjan Holdings, Inc. (the "Company") as of December 31, 2019, and 2018, the related consolidated statements of operations, changes in stockholders' equity and cash flows for each of the three years in the period ended December 31, 2019, and the related notes (collectively referred to as the "financial statements"). In our opinion, the financial statements present fairly, in all material respects, the financial position of the Company as of December 31, 2019 and 2018, and the results of its operations and its cash flows for each of the three years in the period ended December 31, 2019, in conformity with accounting principles generally accepted in the United States of America.

**Change in Accounting Principle**

As discussed in Note 2 to the consolidated financial statements, the Company has changed its method of accounting for leases, effective January 1, 2019, due to the adoption of the guidance in Accounting Standards Codification Topic 842, Leases.

**Basis for Opinion**

These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on the Company's financial statements based on our audits. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) ("PCAOB") and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether due to error or fraud. The Company is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. As part of our audits we are required to obtain an understanding of internal control over financial reporting but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion.

Our audits included performing procedures to assess the risks of material misstatement of the financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the financial statements. We believe that our audits provide a reasonable basis for our opinion.

/s/ Marcum LLP  
Marcum LLP

We have served as the Company's auditor since 2012.

Melville, NY  
March 4, 2020

**FINJAN HOLDINGS, INC.**  
**Consolidated Balance Sheets**  
(In thousands, except share and per share data)

	December 31,	
	2019	2018
<b>Assets</b>		
Current Assets:		
Cash and cash equivalents	\$ 18,304	\$ 32,011
Short term investments	17,779	11,303
Accounts receivable	—	2,550
Prepaid expenses and other current assets	288	6,580
Total current assets	36,371	52,444
Property and equipment, net	462	99
Investments	—	3,518
Intangible assets, net	3,552	5,507
Deferred income taxes	7,267	2,811
Right of use assets	2,227	—
Other assets, non-current	214	214
Total Assets	\$ 50,093	\$ 64,593
<b>Liabilities and Stockholders' Equity</b>		
Current Liabilities:		
Accounts payable	\$ 4,481	\$ 4,394
Accounts payable, related parties	88	163
Accrued expenses	260	394
Lease liability	522	—
Other liabilities, current	2,000	1,500
Total current liabilities	7,351	6,451
Lease liability, non-current	1,786	—
Other liabilities, non-current	1,799	3,463
Total Liabilities	10,936	9,914
Commitments and contingencies (Note 7)		
Stockholders' Equity		
Preferred stock - \$0.0001 par value; 10,000,000 shares authorized; no shares issued and outstanding at December 31, 2019 and 2018	—	—
Common stock - \$0.0001 par value; 80,000,000 shares authorized; 27,650,926 and 27,568,656 shares issued and outstanding at December 31, 2019 and 2018	3	3
Additional paid-in capital	29,502	28,534
Retained earnings	9,652	26,142
Total Stockholders' Equity	39,157	54,679
Total Liabilities and Stockholders' Equity	\$ 50,093	\$ 64,593

The accompanying notes are an integral part of these Consolidated Financial Statements

**FINJAN HOLDINGS, INC.**  
**Consolidated Statements of Operations**  
(In thousands, except share and per share data)

	<b>For the Years Ended December 31,</b>		
	<b>2019</b>	<b>2018</b>	<b>2017</b>
Revenues	\$ 13,150	\$ 82,300	\$ 50,484
Cost of revenues	1,931	15,271	6,008
Gross profit	11,219	67,029	44,476
<b>Operating Expenses:</b>			
Selling, general and administrative	31,675	32,190	28,596
Research and development	1,955	2,094	1,473
Total operating expenses	33,630	34,284	30,069
Income (loss) from operations	(22,411)	32,745	14,407
<b>Other Income / (Expense)</b>			
Interest and other income	816	319	27
Interest expense	(411)	(829)	—
Loss from sale of investment	(679)	—	—
Other expense	(23)	—	—
Change in fair value of warrant liability	—	(3,445)	2,217
Total other income (expense)	(297)	(3,955)	2,244
Income (loss) before provision for income taxes	(22,708)	28,790	16,651
Income tax provision (benefit)	(6,218)	8,052	(6,160)
<b>Net Income (Loss)</b>	<b>(16,490)</b>	<b>20,738</b>	<b>22,811</b>
Accretion of preferred stock	—	(925)	(4,882)
Net income (loss) attributable to common stockholders	\$ (16,490)	\$ 19,813	\$ 17,929
Net income (loss) per share, basic	\$ (0.60)	\$ 0.75	\$ 0.90
Net income (loss) per share, diluted	\$ (0.60)	\$ 0.73	\$ 0.87
Net income (loss) per share applicable to common stockholders, basic	\$ (0.60)	\$ 0.72	\$ 0.71
Net income (loss) per share applicable to common stockholders, diluted	\$ (0.60)	\$ 0.70	\$ 0.68
Weighted average common shares outstanding, basic	27,618,284	27,484,655	25,353,966
Weighted average common shares outstanding, diluted	27,618,284	28,416,512	26,269,727

The accompanying notes are an integral part of these Consolidated Financial Statements

**FINJAN HOLDINGS, INC.**  
**Consolidated Statement of Changes in Stockholders' Equity**  
**For the Years Ended December 31, 2019, 2018 and 2017**  
(In thousands, except share and per share data)

	Common Stock		Additional Paid-In Capital	Retained Earnings / (Accumulated Deficit)	Total
	Shares	Amount			
Balance – December 31, 2016	23,102,728	\$ 2	18,140	\$ (17,256)	\$ 886
Stock-based compensation expense	—	—	843	—	843
Exercise of stock options and vesting of RSUs	464,600	—	229	—	229
Accretion of Series A preferred stock	—	—	(292)	—	(292)
Accretion of Series A-1 preferred stock	—	—	(4,590)	—	(4,590)
Issuance of warrants classified as a liability	—	—	(3,313)	—	(3,313)
Sale of Common Stock	4,140,000	1	11,951	—	11,952
Net income	—	—	—	22,811	22,811
Balance – December 31, 2017	27,707,328	\$ 3	\$ 22,968	\$ 5,555	\$ 28,526
Stock-based compensation expense	—	—	1,593	—	1,593
Exercise of stock options and vesting of RSUs	547,820	—	357	—	357
Accretion of Series A-1 preferred stock	—	—	(925)	—	(925)
Warrant liability reclassifications	—	—	4,541	—	4,541
ASC 606 adjustment	—	—	—	1,872	1,872
Shares repurchased	(686,492)	—	—	(2,023)	(2,023)
Net income	—	—	—	20,738	20,738
Balance – December 31, 2018	27,568,656	\$ 3	\$ 28,534	\$ 26,142	\$ 54,679
Stock-based compensation expense	—	—	968	—	968
Vesting of RSUs	82,270	—	—	—	—
Net loss	—	—	—	(16,490)	(16,490)
Balance – December 31, 2019	27,650,926	\$ 3	\$ 29,502	\$ 9,652	\$ 39,157

The accompanying notes are an integral part of these Consolidated Financial Statements

**FINJAN HOLDINGS, INC.**  
**Consolidated Statements of Cash Flows**  
(In thousands)

	<b>For the Years Ended December 31,</b>		
	<b>2019</b>	<b>2018</b>	<b>2017</b>
<b>Cash Flows From Operating Activities</b>			
Net Income (loss)	\$ (16,490)	\$ 20,738	\$ 22,811
Adjustments to reconcile net income to net cash provided by (used in) operating activities			
Depreciation and amortization	2,038	1,800	815
Loss from sale of investment	679	—	—
Amortization of discount and premium on investments	(261)	1,483	—
Change in fair value of warrant liability	—	3,445	(2,217)
Deferred income taxes	(4,456)	2,712	(6,201)
Stock-based compensation expense	968	1,593	843
Non-cash lease expense	495	—	—
Changes in operating assets and liabilities:			
Accounts receivable	2,550	2,606	(1,540)
Prepaid expenses and other current assets	6,292	(6,029)	(152)
Accrued expenses	(134)	(909)	(529)
Accounts payable	87	(252)	2,788
Accounts payable - related parties	(75)	51	24
Accrued income taxes	—	(13)	10
Lease liability	(485)	—	—
Other liabilities	(1,093)	(1,624)	(66)
<b>Net Cash Provided by (Used in) Operating Activities</b>	<b>(9,885)</b>	<b>25,601</b>	<b>16,586</b>
<b>Cash Flows From Investing Activities</b>			
Purchase of intangible assets	—	(1,000)	(2,000)
Purchases of additional investment	(700)	(900)	—
Proceeds from sale of investment	3,539	—	127
Purchases of marketable securities	(24,562)	(11,303)	—
Redemption of marketable securities	18,347	—	—
Purchase of property and equipment	(446)	—	—
<b>Net Cash Used in Investing Activities</b>	<b>(3,822)</b>	<b>(13,203)</b>	<b>(1,873)</b>
<b>Cash Flows From Financing Activities</b>			
Proceeds from the sale of Series A-1 Preferred shares, net of issuance costs	—	—	14,375
Redemption of Preferred shares	—	(19,890)	(13,778)
Proceeds from Common share offering, net of issuance costs	—	—	11,952
Repurchase of Finjan Holdings shares	—	(2,023)	—
Proceeds from exercise of stock options	—	357	229
<b>Net Cash Provided by (Used in) Financing Activities</b>	<b>—</b>	<b>(21,556)</b>	<b>12,778</b>
<b>Net Increase (Decrease) in Cash and Cash Equivalents</b>	<b>(13,707)</b>	<b>(9,158)</b>	<b>27,491</b>
<b>Cash and Cash Equivalents - Beginning</b>	<b>32,011</b>	<b>41,169</b>	<b>13,678</b>
<b>Cash and Cash Equivalents - Ending</b>	<b>\$ 18,304</b>	<b>\$ 32,011</b>	<b>\$ 41,169</b>

	For the Years Ended December 31,		
	2019	2018	2017
<b>Supplemental Disclosures of Cash Flow Information:</b>			
Cash paid for income taxes	\$ —	\$ 10,700	\$ 30
Non-cash investing and financing activities:			
Accretion of Series A Preferred Stock	—	—	292
Accretion of Series A-1 Preferred Stock	—	925	4,590
Series A-1 warrant liability	—	—	3,313
Patent purchase in exchange for payable	—	—	6,500
Changes in accounts receivable, adoption of ASC606	—	2,550	—
Changes in deferred tax, adoption of ASC606	—	678	—
Reclassification of warrant liability to equity	—	4,541	—

The accompanying notes are an integral part of these Consolidated Financial Statements

**FINJAN HOLDINGS, INC.**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

**NOTE 1 – ORGANIZATION AND OPERATIONS**

***ORGANIZATION***

Finjan Holdings, Inc. (the “Company” or “Finjan Holdings”), a Delaware corporation, and its wholly owned subsidiaries, Finjan, Inc. (“Finjan”), Finjan Blue, Inc. (“Finjan Blue”) and Finjan Mobile, Inc. (“Finjan Mobile”) operates a cybersecurity business focused in three business lines: intellectual property licensing and enforcement, mobile security application development and investing in cybersecurity technologies and intellectual property. Licensing and enforcement of the Company’s cybersecurity patent portfolio is operated, through its wholly-owned subsidiaries Finjan and Finjan Blue. Revenues and operations are concentrated in Finjan; other subsidiaries were immaterial to the consolidated financial statements for the years ended December 31, 2019, 2018 and 2017. The Company’s common stock has been trading on the NASDAQ Capital Market (“NASDAQ”) since May 2014.

**NOTE 2 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

***BASIS OF PRESENTATION***

The consolidated financial statements include the accounts of the Company and its wholly-owned subsidiaries. All intercompany balances and transactions have been eliminated in consolidation.

***USE OF ESTIMATES***

The preparation of financial statements in conformity with US Generally Accepted Accounting Principles (“US GAAP”), requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. On an ongoing basis, the Company evaluates its estimates, including those related to stock-based compensation expense, impairment of long-lived assets, the determination of the economic useful life of property and equipment, income taxes and valuation allowances against net deferred tax assets. Management bases its estimates on historical experience or on various other assumptions that it believes to be reasonable under the circumstances. Actual results could differ from those estimates.

***CASH AND CASH EQUIVALENTS***

The Company considers all highly liquid instruments with original maturities of three months or less when purchased to be cash equivalents. Included in cash and cash equivalents are demand deposits and money market accounts.

***SHORT TERM INVESTMENTS***

Investments consist of U.S. Treasury Bills, which are classified as held-to-maturity, Certificates of Deposit and other Corporate Debt Securities. The Company determines the appropriate balance sheet classification of its investments at the time of purchase and evaluates the classification at each balance sheet date. All of the Company’s investments mature within the next twelve months. Unrealized gains and losses are *de minimis*. As of December 31, 2019 and 2018, the carrying value of the Company’s U.S. Treasury Bills approximates their fair value due to their short-term maturities.

***CONCENTRATIONS OF CREDIT RISK***

The Company maintains substantially all of its cash and cash equivalents in financial institutions located in the United States. The Company also has certain bank accounts with minimal balances in Israel. At times, the Company’s cash and cash equivalent balances may be uninsured or in deposit accounts that exceed the Federal Deposit Insurance Corporation (“FDIC”) insurance limits. The Company has not experienced any losses in such accounts. As of December 31, 2019, and 2018, substantially all of the Company’s cash and cash equivalents and short term investments are uninsured.

During 2019, revenues generated by the Company were derived from 2 license agreements that the Company entered into with third parties in 2019.

During 2018, revenues generated by the Company were derived from three license agreements that the Company entered into with third parties in 2018. Two licenses comprised 95% of the Company's revenue for 2018.

During 2017, revenues generated by the Company were derived from six license agreements that the Company entered into with third parties in 2017. Two licenses comprised 67% of the Company's revenue for 2017.

See "Note 9 - License, Settlement and Release Agreements."

#### ***ALLOWANCE FOR DOUBTFUL ACCOUNTS***

The allowance for doubtful accounts is based on the Company's assessment of the collectability of customer accounts. The Company does not currently require any collateral for accounts receivable. The Company regularly reviews the allowance by considering factors such as historical experience, credit quality, the age of the accounts receivable balances, and current economic conditions that may affect a customer's ability to pay. The Company did not record an allowance for doubtful accounts as of December 31, 2019 and 2018, respectively. Bad debt expense for the years ended December 31, 2019, 2018 and 2017 was nil.

#### ***PROPERTY AND EQUIPMENT, NET***

Property and equipment are stated at cost, less accumulated depreciation. Depreciation is calculated on the straight-line method over the estimated useful lives of the related assets, which range from 3 to 7 years. Leasehold improvements are amortized on the straight-line method over the shorter of the remaining lease term or the estimated useful economic lives of the related assets. The costs of additions and betterments are capitalized and expenditures for repairs and maintenance are expensed in the period incurred. When items of property and equipment are sold or retired, the related costs and accumulated depreciation are removed from the accounts and any gain or loss is included in income.

#### ***INVESTMENTS***

Investments that are not controlled, and over which the Company does not have the ability to exercise significant influence are accounted for under the cost method. All of the Company's investments as of December 31, 2019 and 2018 are accounted for under the cost method.

#### ***IMPAIRMENT OF LONG-LIVED ASSETS***

Intangible assets with finite lives are amortized over their estimated useful lives. The Company reviews these assets for impairment periodically or whenever potential indicators of impairment exist. The Company continually evaluates whether events or changes in circumstances might indicate that the remaining estimated useful life of long-lived assets may warrant revision, or that the remaining balance may not be recoverable. When factors indicate that long-lived assets should be evaluated for possible impairment, the estimate of fair value is based on the best information available as of the date of the assessment, is subjective and requires judgment, including management assumptions as deemed appropriate and would be based on generally accepted valuation methodologies.

#### ***REVENUE RECOGNITION***

Effective January 1, 2018, the Company adopted Accounting Standard Codification ("ASC") Topic 606, Revenue from Contracts with Customers ("Topic 606" or "ASC 606"), using the modified retrospective method applied to those contracts which were not completed as of January 1, 2018.

Under ASC 605, revenues were recognized when persuasive evidence of an arrangement exists, delivery of the product or service has occurred, all obligations have been performed pursuant to the terms of the agreement, the sales price is fixed or determinable, and collectability is reasonably assured. This guidance was followed prior to January 1, 2018.

Under ASC 606 revenue is recognized when a customer obtains control of promised goods and services. The amount of revenue recognized reflects the consideration to which the Company expects to be entitled to receive in exchange for these goods and services. In addition, the guidance requires disclosures of the nature, amount, timing, and uncertainty of revenue and cash flows arising from contracts with customers.

The core principle of the standard is that the Company should recognize revenue to depict the transfer of promised goods or services to customers in an amount that reflects the consideration to which the Company expects to be entitled in exchange for those goods or services. To achieve that core principle, the Company should apply the following five step model:

- Identify the contract with the customer;
- Identify the performance obligations in the contract;
- Determine the transaction price;
- Allocate the transaction price to the performance obligations in the contract; and
- Recognize revenue when (or as) each performance obligation is satisfied.

Revenue from the Company's cybersecurity business results from grants of licenses to its patented cybersecurity technology and settlements reached from legal enforcement of the Company's patent rights. Revenue is recognized at the point in time when the arrangement with the licensee has been signed and the license has been delivered.

The total amount of the consideration received upon any settlement or judgment is allocated to each element based on the fair value of each element. Elements provided in either settlement agreements or judgments include, the value of a license, legal release and interest. Fair value of licensing agreements and royalty revenues, are recognized as revenues in the consolidated statement of operations. Elements not related to license agreements and royalty revenue in nature will be reflected in other income (expense), net in the consolidated statements of operations. Legal release as part of a settlement agreement is recognized as a separate line item in the consolidated statements of operations when value can be allocated to the legal release. When the Company reaches a settlement with a defendant, no value is allocated to the legal release since the existence of a settlement removes legal standing to bring a claim of infringement, and without a legal claim, the legal release has no economic value. The element that is applicable to interest income will be recorded in other income (expense), net.

When settlements or judgments are achieved at discounts to the fair value of a license, the Company allocates the full settlement or judgment, excluding specifically named elements as mentioned above, to the value of the license agreement or royalty revenue under the residual method relative to full license fair value prior to the discount.

#### ***RESEARCH AND DEVELOPMENT EXPENSE***

The Company expenses the cost of research and development as incurred. Research and development expenses consist primarily of professional services costs associated with the development of mobile security application products.

#### ***SOFTWARE DEVELOPMENT COSTS***

Software development costs are expensed as incurred. Development costs of computer software to be sold, leased, or otherwise marketed are subject to capitalization beginning when a product's technological feasibility has been established and ending when a product is available for general release to customers. In most instances, the Company's products are released soon after technological feasibility has been established. Software development costs incurred subsequent to achievement of technological feasibility were not material and were expensed as incurred during the years ended December 31, 2019, 2018 and 2017.

#### ***FOREIGN CURRENCY***

Foreign currency denominated assets and liabilities of foreign subsidiaries, where the local currency is the functional currency, are translated into U.S. dollars using the exchange rates in effect at the balance sheet dates, and income and expenses are translated using average exchange rates during the period. Foreign currency translation gains (losses) were immaterial for the years ended December 31, 2019, 2018 and 2017.

#### ***PREFERRED STOCK***

The Company accounts for the redemption premium and issuance costs on its preferred stock by recognizing changes in the redemption value immediately as they occur and adjusting the carrying value of the security to equal the redemption value at the end of each reporting period. This method views the end of the reporting period as if it were also the redemption date for the security.

**ACCOUNTING FOR WARRANTS**

The Company classifies as equity any contracts that (i) require physical settlement or net-share settlement or (ii) gives the Company a choice of net-cash settlement or settlement in its own shares (physical settlement or net-share settlement). The Company classifies as assets or liabilities any contracts that (i) require net-cash settlement (including a requirement to net-cash settle the contract if an event occurs and if that event is outside the control of the Company) or (ii) gives the counterparty a choice of net-cash settlement or settlement in shares (physical settlement or net-share settlement).

**DERIVATIVE LIABILITIES**

In connection with the issuance of Series A-1 Preferred Stock in June 2017, the Company issued a warrant with variable consideration through September 2018. The Company determined that this instrument is an embedded derivative pursuant to ASC 815, "Derivatives and Hedging." The accounting treatment of derivative financial instruments requires that the Company record the warrant, at its fair value as of the inception date of the agreement and at fair value as of each subsequent balance sheet date through the expiration of the variable consideration. Any change in fair value is recorded as a change in the fair value of derivative liabilities for each reporting period at each balance sheet date. The Company reassesses the classification at each balance sheet date. If the classification changes as a result of events during the period, the contract is reclassified as of the date of the event that caused the reclassification. On September 19, 2018, upon expiration of the variable consideration, the warrant liability of \$4.5 million was reclassified to equity.

The Monte Carlo Valuation model is used to estimate the fair value of the warrant. The model was developed for use in estimating the fair value of traded options or warrants. The expected volatility is estimated based on the most recent historical period of time equal to the weighted average life of the instrument granted.

The risk-free interest rate used is the United States Treasury rate for the day of the grant having a term equal to the life of the equity instrument. The volatility is a measure of the amount by which the Company's share price has fluctuated or is expected to fluctuate. The dividend yield is zero as the Company has not made any dividend payment and has no plans to pay dividends in the foreseeable future. The Company determines the expected term of its warrant awards by using the contractual term.

The principal assumptions used in applying the model were as follows:

	<u>Upon 2018 Expiration</u>	<u>December 31, 2017</u>
<b>Assumptions:</b>		
Risk-free interest rate	2.3% - 2.5%	1.5% - 2.0%
Expected life	1.8 - 2.2 Years	2.5 - 3 Years
Expected volatility	65% - 70%	50% - 60%
Dividends	0%	0%

**FAIR VALUE OF FINANCIAL INSTRUMENTS**

The reported amounts of the Company's financial instruments, including cash and cash equivalents, short term investments, accounts receivable, accounts payable and accrued liabilities, approximate their fair value due to their short maturities.

Fair value is the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. These fair value measurements apply to all financial instruments that are measured and reported on a fair value basis.

Where available, fair value is based on observable market prices or is derived from such prices. The Company uses the market approach valuation technique to value its investments. The market approach uses prices and other pertinent information generated from market transactions involving identical or comparable assets or liabilities. The types of factors that the Company may take into account in fair value pricing the investments include available current market data, including relevant and applicable market quotes.

Based on the observability of the inputs used in the valuation techniques, financial instruments are categorized according to the fair value hierarchy, which ranks the quality and reliability of the information used to determine fair values.

Financial assets and liabilities carried at fair value are classified and disclosed in one of the following three categories:

Level 1 - Observable inputs such as quoted prices in active markets.

Level 2 - Inputs, other than the quoted prices in active markets, that are observable either directly or indirectly.

Level 3 - Unobservable inputs in which there is little or no market data, which require the reporting entity to develop its own assumptions.

In certain cases, the inputs used to measure fair value may fall into different levels of the fair value hierarchy. In such cases, the assignment of an asset or liability within the fair value hierarchy is based on the lowest level of input that is significant to the fair value measurement. The Company's assessment of the significance of a particular input to the fair value measurement in its entirety requires judgment and considers factors specific to the asset or liability.

The Company classifies short term investments as available-for-sale investments within Level 2 in the fair value hierarchy as it uses alternative pricing sources and models using market observable inputs to determine their fair value.

**NET INCOME (LOSS) PER COMMON SHARE**

Basic net income (loss) per common share is based upon the weighted-average number of common shares outstanding. Diluted net income (loss) per common share is based on the weighted-average number of common shares outstanding and potentially dilutive common shares outstanding and computed as follows:

	Years Ended December 31,		
	2019	2018	2017
(In thousands, except share and per share data)			
<b>Numerator:</b>			
Net income (loss) attributable to common stockholders	\$ (16,490)	\$ 19,813	\$ 17,929
<b>Denominator:</b>			
Weighted-average common shares, basic	27,618,284	27,484,655	25,353,966
Weighted-average common shares, diluted*	27,618,284	28,416,512	26,269,727
<b>Net income (loss) per common share:</b>			
Basic:	\$ (0.60)	\$ 0.72	\$ 0.71
Diluted:	\$ (0.60)	\$ 0.70	\$ 0.68

\* For the twelve months ended December 31, 2018, the diluted earnings per common share included the weighted average effect of 215,196 unvested Restricted Stock Units and 716,661 stock options that are potentially dilutive to earnings per share since the exercise price of such securities was less than the average market price during the period. For the twelve months ended December 31, 2017, the diluted earnings per common share included 438,712 unvested Restricted Stock Units and the weighted average effect of 477,048 stock options that are potentially dilutive to earnings per share since the exercise price of such securities was less than the average market price during the period.

Potentially dilutive common shares from employee equity plans and warrants are determined by applying the treasury stock method to the assumed exercise of warrants and share options and were excluded from the computation of diluted net income (loss) per share because their inclusion would be anti-dilutive and consist of the following:

	December 31,		
	2019	2018	2017
Stock options	2,356,197	822,269	1,864,292
Restricted stock units	486,135	13,333	—
Warrants	2,355,506	2,355,506	2,355,506
Total	5,197,838	3,191,108	4,219,798

## **STOCK-BASED COMPENSATION**

The Company measures compensation cost for all stock-based awards at their fair values on the date of grant. The fair value of stock based awards is recognized as expense over the service period, net of estimated forfeitures, using the straight-line method for stock options and restricted stock. The Company uses the Black-Scholes option-pricing model to estimate the fair value of its stock-based awards.

## **INCOME TAXES**

The Company files consolidated income tax returns in the U.S. federal jurisdiction and is headquartered in California, formerly in New York. The federal and state income tax returns for the tax years 2013 and after remain subject to examination for federal and state taxes. The Company files state income tax returns for California and New York.

The Company accounts for income taxes pursuant to the asset and liability method which requires deferred income tax assets and liabilities to be computed annually for temporary differences between the financial statement and tax bases of assets and liabilities that will result in taxable or deductible amounts in the future based on enacted tax laws and rates applicable to the periods in which the differences are expected to affect taxable income. Valuation allowances are established when necessary to reduce deferred tax assets to the amount expected to be realized. The income tax provision or benefit is the tax payable or refundable for the period plus or minus the change during the period in deferred tax assets and liabilities.

The benefit of tax positions taken or expected to be taken in income tax returns are recognized in the financial statements if such positions are more likely than not of being sustained. As of December 31, 2019, 2018 and 2017, an immaterial liability for unrecognized tax benefits was required to be reported. The Company does not expect its unrecognized tax benefit position to change during the next twelve months.

The Company's policy is to classify assessments, if any, for tax-related interest as interest expense and penalties as general and administrative expenses. There were no amounts accrued for penalties or interest as of, or during the years ended December 31, 2019, 2018 and 2017.

## **RECENT ACCOUNTING STANDARDS**

### ***Adopted 2019:***

In August 2018, the SEC issued Release No. 33-10532 that amends and clarifies certain financial reporting requirements. The principal change to our financial reporting is the inclusion of the annual disclosure requirement of changes in stockholders' equity in Rule 3-04 of Regulation S-X to interim periods. The Company adopted this guidance on January 1, 2019.

In February 2016, the Financial Accounting Standards Board ("FASB") issued Accounting Standards Update ("ASU") 2016-02, *Leases (Topic 842)*. Subsequent to the issuance of Topic 842, the FASB clarified the guidance through several ASUs; hereinafter the collection of lease guidance is referred to as "ASC 842". The Company, using the modified retrospective approach with a cumulative-effect adjustment, - and recognized a right to use ("ROU") asset at the beginning of the period of adoption (January 1, 2019). Therefore, the Company recognized and measured operating leases on the consolidated balance sheet without revising comparative period information or disclosure. The Company elected the package of practical expedients permitted under the transition guidance within the standard, which eliminates the reassessment of past leases, classification and initial direct costs and treats short term leases of less than a year outside of a ROU asset. The Company has no financing leases. The adoption did not materially impact the Company's Consolidated Statements of Operations or Cash Flows. Refer to Note 7, Commitments and Contingencies, for additional disclosures required by ASC 842. The Company determines if an arrangement is a lease at inception. For leases where the Company is the lessee, ROU assets represent the Company's right to use an underlying asset for the lease term and lease liabilities represent an obligation to make lease payments arising from the lease. ROU assets and lease liabilities are recognized at the lease commencement date (except we used the practical expedients and recorded the outstanding operating lease at January 1, 2019) based on the present value of lease payments over the lease term. As the Company's lease did not provide an implicit interest rate, the Company used the equivalent borrowing rate for a secured financing with the term of that equal to the remaining life of the lease at inception. The lease terms used to calculate the ROU asset and related lease liability did not include options to extend or termination of the lease; there are none and there is no reasonable certainty that the Company would extend the lease at expiration. Lease expense for operating leases is recognized on a straight-line basis over the lease term as an operating expense; there were no finance leases at this time which would be recognized as depreciation expense and interest expense. The Company has lease agreements which require payments for lease and non-lease components and has elected to account for these as a separate lease components. Non-leasing components are not included in the ROU asset.

The Company adopted ASU 2017-11, "Earnings Per Share (Topic 260), Distinguishing Liabilities from Equity (Topic 480) and Derivatives and Hedging (Topic 815): I. Accounting for Certain Financial Instruments with Down Round Features; II. Replacement of the Indefinite Deferral for Mandatorily Redeemable Financial Instruments of Certain Nonpublic Entities and Certain Mandatorily Redeemable Noncontrolling Interests with a Scope Exception". Part I of this update addresses the complexity of accounting for certain financial instruments with down round features. Down round features are features of certain equity-linked instruments (or embedded features) that result in the strike price being reduced on the basis of the pricing of future equity offerings. Current accounting guidance creates cost and complexity for entities that issue financial instruments (such as warrants and convertible instruments) with down round features that require fair value measurement of the entire instrument or conversion option. Part II of this update addresses the difficulty of navigating Topic 480, Distinguishing Liabilities from Equity, because of the existence of extensive pending content in the FASB Accounting Standards Codification. This pending content is the result of the indefinite deferral of accounting requirements about mandatorily redeemable financial instruments of certain nonpublic entities and certain mandatorily redeemable noncontrolling interests. The amendments in Part II of this update do not have an accounting effect. This ASU is effective for fiscal years, and interim periods within those years, beginning after December 15, 2018. The impact of this adoption was immaterial on the Company's consolidated financial statements and related disclosures.

***Not Yet Adopted as of December 31, 2019***

In August 2018, the FASB issued ASU 2018-13, Disclosure Framework - Changes to the Disclosure Requirements for Fair Value Measurements ("ASU 2018-13"), which eliminates, adds and modifies certain disclosure requirements for fair value measurements as part of the FASB's disclosure framework project. Adoption of this guidance is required for fiscal years and interim periods within those fiscal years, beginning after December 15, 2019. The Company is currently evaluating this guidance and the impact of this update on the Company's consolidated financial statements.

Other recent accounting standards that have been issued or proposed by FASB or other standards-setting bodies that do not require adoption until a future date are not expected to have a material impact on the Company's consolidated financial statements upon adoption.

**NOTE 3 - SHORT TERM INVESTMENTS**

The Company's short term investments are classified as below with maturities of twelve months or less, unrealized gains and losses were immaterial for the periods presented:

	<b>December 31</b>	
	<b>2019</b>	<b>2018</b>
	<b>(in thousands)</b>	
Government	\$ 1,012	\$ —
Asset Backed	4,854	1,786
Industrial	5,034	2,381
Financial	6,879	7,136
	<u>\$ 17,779</u>	<u>\$ 11,303</u>

**NOTE 4 - PREPAID EXPENSES AND OTHER CURRENT ASSETS & PATENTS AND INTANGIBLE ASSETS**

***Prepaid Expenses and Other Current Assets***

The components of prepaid expenses and other current assets are as presented below:

	<b>As of December 31,</b>	
	<b>2019</b>	<b>2018</b>
	(in thousands)	
Prepaid income taxes	\$ —	\$ 5,429
Other prepaid expenses and other current assets	288	1,151
	<u>\$ 288</u>	<u>\$ 6,580</u>

During 2019, tax refunds from the Internal Revenue Service of \$5.0 million were received for the prepayment made during 2018.

***Patents and Intangible Assets***

The Company owns or possesses licenses to use its patents. The costs of maintaining the patents are expensed as incurred.

The Company and Finjan Blue entered into a Patent Assignment and Support Agreement (the "Patent Assignment Agreement") with IBM effective as of August 24, 2017 (see "Note 7 - Commitments and Contingencies"). Pursuant to the Patent Assignment Agreement, Finjan Blue acquired select IBM patents in the security sector. In accordance with ASC 350-30-35-2 through 35-4, Intangibles-Goodwill and Other, the Company determined that the useful life of the patents acquired under the Patent Assignment and Support Agreement should be amortized over the four-year term of the agreement.

On May 15, 2018, Finjan Blue, entered into a second agreement with IBM (the "May 2018 Patent Assignment Agreement"). Pursuant to the May 2018 Patent Assignment Agreement, Finjan Blue acquired 56 select issued and pending IBM patents in the security sector. The terms of the May 2018 Patent Assignment Agreement are confidential. In accordance with ASC 350-30-35-2 through 35-4, Intangibles-Goodwill and Other, the Company determined that the useful life of the patents acquired under the May 2018 Patent Assignment Agreement should be amortized over five years as the covenants between the parties are effective for that period.

Management did not identify any triggering events which would have necessitated an impairment change.

The components of these intangible assets are as follows:

	<b>As of December 31,</b>	
	<b>2019</b>	<b>2018</b>
	(in thousands)	
Patents	\$ 26,069	\$ 26,069
Less accumulated amortization	(22,517)	(20,562)
Intangible assets, net	<u>\$ 3,552</u>	<u>\$ 5,507</u>

Amortization expense for the years ended December 31, 2019, 2018 and 2017 was approximately \$2.0 million, \$1.8 million, and \$0.8 million, respectively.

As of December 31, 2019, future amortization costs will be recognized as follows (in thousands):

<b>Year ending December 31,</b>	
2020	\$ 1,954
2021	1,325
2022	200
2023	73
	<u>\$ 3,552</u>

**NOTE 5 – INVESTMENTS**

In November 2013, the Company made a \$5.0 million commitment to invest in a fund managed by Jerusalem Venture Partners ("JVP"). JVP's newly created Cyber Strategic Partners Fund VII was co-invested by the Company and three other multi-national companies. In June 2015, the Company received \$1.3 million in distribution from JVP. Following cash calls during 2019 and 2018, the Company funded additional investments in JVP of \$0.7 million and \$0.9 million, respectively.

On December 31, 2019, the Company completed the sale of its interest in JVP, pursuant to a Partnership Interest Purchase Agreement (the "Purchase Agreement"). In connection with the sale, the Company received \$3.5 million in cash and recorded a loss of \$0.7 million which is included in loss from sale of investment in the accompanying consolidated statement of operations. The Company's remaining \$1.1 million capital commitment to JVP was assumed by the purchasers pursuant to the Purchase Agreement.

**NOTE 6 – OTHER LIABILITIES**

As described in Note 4, the Company and Finjan Blue entered into a Patent Assignment Agreement with IBM. The components of other liabilities are as presented below:

	As of December 31,	
	2019	2018
	(In thousands)	
Other liabilities, current	\$ 2,000	\$ 1,500
Other liabilities, non-current	1,799	3,463
	<u>\$ 3,799</u>	<u>\$ 4,963</u>

**NOTE 7 – COMMITMENTS AND CONTINGENCIES**

**OPERATING LEASES**

On July 19, 2018, the Company entered into an office lease agreement for its headquarters commencing October 1, 2018 through June 2023. The annual rent is approximately \$0.7 million, payable in equal monthly installments, unless earlier terminated by either party in accordance with the lease. The annual rent is subject to an approximate 5% increase at each anniversary of the commencement date during the term of the agreement. The agreement also required a security deposit of \$0.2 million, which is included in other assets, non-current in the accompanying consolidated balance sheets.

During 2019, the Company had two sub-lease arrangements with related parties that have lease terms that are month-to-month based on the legally enforceable terms of the agreements as of January 1, 2019. In accordance with ASC 842-10-55-12, leases between related parties should be classified in accordance with the lease classification criteria applicable to all other leases on the basis of the legally enforceable terms and conditions of the lease. As a result, the Company elected not to apply the recognition requirements of ASC 842 for short-term leases, however, the lease costs that pertain to the short-term leases are disclosed in the components of lease costs table below. At December 31, 2019 one sub-lease remains.

The balance sheet classification of the Company's right-of-use asset and lease liabilities was as follows (in thousands):

	December 31, 2019
Operating lease right of use assets	\$ 2,227
Operating lease liabilities	
Current portion included in current liabilities	522
Long term portion included in non-current liabilities	1,786
Total Operating lease liabilities	<u>\$ 2,308</u>

The components of lease expenses, net which were included in Total expenses in the Company's consolidated statements of operations, were as follows (in thousands):

	<b>December 31, 2019</b>	
Operating lease cost	\$	792
Variable lease cost	\$	—
Short term lease income	\$	(237)
	\$	<u>555</u>

Cash paid for amounts included in the measurement of lease liabilities for the twelve months ended December 31, 2019 was \$0.8 million and was included in net cash provided by (used in) operating activities in the Company's consolidated statement of cash flows. Upon the adoption of ASC 842 on January 1, 2019, the Company increased non-cash balances of operating lease right-of-use assets and operating lease liabilities by \$2.7 million and \$2.8 million, respectively. A non-cash lease expense of \$0.5 million was included in adjustments to reconcile net loss to net cash used in operating activities in the consolidated statements of cash flows.

As of December 31, 2019, the maturities of the Company's operating lease liabilities were as follows (in thousands):

**Year ending December 31,**

2020	\$	773
2021		801
2022		829
2023		425
Total lease payments	\$	<u>2,828</u>
Less: present value adjustment		<u>(520)</u>
Operating lease liabilities	\$	<u>2,308</u>

Operating lease liabilities are based on the net present value of the remaining lease payments over the remaining lease term. In determining the present value of lease payments, the Company used its incremental borrowing rate based on the information available at the date of adoption of ASC 842. As of December 31, 2019, the weighted average remaining lease term is 3.5 years and the weighted average discount rate used to determine the operating lease liabilities was 1%.

For the years ended December 31, 2019, 2018 and 2017, aggregate rent expense was approximately \$0.8 million, \$0.6 million and \$0.7 million, respectively.

Rental income was approximately \$0.2 million for each of the years ended December 31, 2019, 2018 and 2017.

Sublease income is recorded as a reduction in rental expense. Future minimum lease payments to be received under existing sublease agreement as of December 31, 2019 is immaterial.

## **CONTRACTUAL OBLIGATIONS**

### **Finjan Mobile**

On April 21, 2017, the Company and Finjan Mobile, a wholly-owned subsidiary of the Company, entered into a Confidential Avira VPN Platform Distribution Agreement (the "Distribution Agreement") with Avira, Inc., a Delaware corporation ("Avira"). Pursuant to the Distribution Agreement, Avira will provide its Virtual Private Network ("VPN") platform and technical support ("VPN Platform") to Finjan Mobile, and Finjan Mobile will use the VPN Platform as part of its Vital Security™ suite of product offerings. Avira also granted Finjan Mobile related license rights in connection with the Distribution Agreement and starting July 1, 2017, Finjan Mobile will pay Avira \$3.9 million in fees under the Distribution Agreement, payable in 12 quarterly installments of \$0.3 million over 3 years. The Company has analyzed the terms of the agreement and has accounted for the transaction as a service agreement, to be expensed over the service period. As of December 31, 2019, the Company has a \$0.7 million contractual obligation due over the next 2 quarters.

## Finjan Blue

As described in Note 4, pursuant to the Patent Assignment Agreement, Finjan Blue acquired select IBM patents in the security sector (the “IBM Security Patents”) in exchange for \$8.5 million cash, payable as follows: (i) \$2.0 million upon execution of the Patent Assignment Agreement and (ii) \$6.5 million over the subsequent four years. The Company’s initial \$2.0 million payment was made on August 24, 2017, a second payment on August 24, 2018 and a third payment on September 9, 2019. As of December 31, 2019, the Company has a \$4.0 million obligation due over the next 2 years, which has been recorded at its present value as a component of other liabilities on the accompanying consolidated balance sheets.

IBM will support Finjan Blue in its development and licensing of the IBM Security Patents and provide assistance for such efforts as needed for the term of the Agreement and Finjan Blue will reimburse IBM for reasonable time and out of pocket costs for such assistance, however IBM will not receive further proceeds from such efforts. IBM does have reservation of rights with respect to the IBM Security Patents for its current licensees and open source initiatives.

## NOTE 8 - LITIGATION, CLAIMS AND ASSESSMENTS

### A. United States District Court Actions

#### *Finjan, Inc. v. Palo Alto Networks, Inc., Case No. 4:14-cv-04908-PJH (N.D. Cal.)*

Finjan filed a patent infringement lawsuit against Palo Alto Networks, Inc. (“Palo Alto Networks”) in the United States District Court for the Northern District of California on November 4, 2014, asserting that Palo Alto Networks is directly and indirectly infringing certain claims of Finjan’s U.S. Patent Nos. 6,804,780; 6,965,968; 7,058,822; 7,418,731; 7,613,918; 7,613,926; 7,647,633; 8,141,154; 8,225,408; and 8,677,494 (the “Asserted Patents”) through the manufacture, use, importation, sale, and/or offer for sale of its products and services, including but not limited to Next-Generation Security Platform, Next-Generation Firewall, Virtualized Firewall, WildFire Subscription, WildFire Platform, URL Filtering Subscription, Threat Prevention Subscription, and Advanced EndPoint Protection. Finjan seeks entry of judgment that Palo Alto Networks has infringed, is infringing, has induced infringement and is inducing infringement of the Asserted Patents, a preliminary and permanent injunction from infringing, or inducing the infringement of the Asserted Patents, an accounting of all infringing sales and revenues, damages of no less than a reasonable royalty consistent with proof, and enhanced damages for willful infringement, costs, interest, and reasonable attorneys’ fees under 35 U.S.C. §285. This action is before the Honorable Phyllis J. Hamilton. Palo Alto Networks filed its Answer and Counterclaims on December 31, 2015. Palo Alto Networks filed several petitions for IPR’s before the PTAB. The PTAB instituted review of certain patents and denied institution on other challenged patents. On May 26, 2016, the Court ordered a stay to remain in effect until the PTAB’s final determination of the instituted IPRs, and the matter remains stayed pending appeal. For particulars of the pending IPR proceedings, see Section B of this Note, “*Inter Partes* Review Proceedings,” case numbers IPR 2015-01979, IPR2016-00151, and IPR2016-00159. The parties will file a joint status report within seven (7) days of final determination on the instituted IPRs, including any appeals, informing the Court of the status of the IPR decisions. There can be no assurance that Finjan will be successful in settling or litigating these claims.

#### *Finjan, Inc. v. ESET, LLC et al., Case No. 3:17-cv-00183-CAB (S.D. Cal.)*

Finjan filed a patent infringement lawsuit against ESET, LLC and ESET SPOL S.R.O. (collectively “ESET”) in the United States District Court for the Northern District of California (Case No. 3:16-cv-03731-JD (N.D. Cal.)) on July 1, 2016, asserting that ESET infringes Finjan’s U.S. Patent Nos. 6,154,844; 6,804,780; 7,975,305; 8,079,086; 9,189,621; and 9,219,755 (the “Asserted Patents”) through the manufacture, use, importation, sale, and/or offer for sale of its products and services, including but not limited to, ESET ThreatSense, ESET Advanced Heuristic, ESET DNA Signature, Host-based Intrusion Prevention System (HIPS), and ESET LiveGrid technologies including ESET’S Home Protection, Small Office, and Business product lines and ESET Services. Finjan seeks entry of judgment that ESET has infringed and is infringing the Asserted Patents, a preliminary and permanent injunction from the infringement of the same patents, an accounting of all infringing sales and revenues, damages of no less than a reasonable royalty consistent with proof, and enhanced damages for willful infringement, costs, interest, and reasonable attorneys’ fees under 35 U.S.C. § 285. The case was transferred to the Southern District of California on January 31, 2017. This action is before the Honorable Cathy Ann Bencivengo. Details on procedures prior to December 2018 are disclosed in Note 8 of our Annual Report on Form 10-K for the fiscal year ended December 31, 2018. The Court’s prior Scheduling Order set a trial date of October 29, 2019. On July 30, 2019, ESET filed an *Ex Parte* Motion to Amend the Scheduling Order, due to ESET’s trial counsels’ move to another law firm, and on July 31, 2019, the Court granted ESET’s motion and vacated “all pending deadlines and hearing dates.” On September 24, 2019, the Court issued an Order concerning the parties’ dispositive and *Daubert* motions, denying some motions, providing tentative rulings on others, and requesting oral argument on the remaining, which the Court heard on September 26, 2019. On October 16, 2019, the Court issued its Order on Motions for Summary Judgment and Motions to Exclude or Strike. On November 11 and 13, 2019 the

parties filed motions for reconsideration of the Court's summary judgment orders. On December 23, 2019 the Court denied Finjan's Motion for Reconsideration. On December 30, 2019 the Court granted in-part and denied in-part ESET's Motion for Reconsideration. On January 10, 2020 the Court ordered a Mandatory Settlement Conference be held on February 10, 2020. The settlement conference was held in person before the Honorable Magistrate Judge Bernard G. Skomal and did not result in any resolution between the parties at that time. A pretrial conference and motion *in limine* hearing was held on February 21, 2020, the Pretrial Order was entered on February 25, 2020, and the jury trial is to commence on March 9, 2020. There can be no assurance that Finjan will be successful in settling or litigating these claims.

***Finjan, Inc. v. Cisco Systems, Inc., Case No. 5:17-cv-00072-BLF (N.D. Cal.)***

Finjan filed a patent infringement lawsuit against Cisco Systems, Inc. ("Cisco") in the United States District Court for the Northern District of California on January 6, 2017, asserting that Cisco infringes certain claims of Finjan's U.S. Patent Nos. 6,154,844; 6,804,780; 7,647,633; 8,141,154; and 8,677,494 (the "Asserted Patents") through the manufacture, use, importation, sale, and/or offer for sale of its products and services, including but not limited to, Cisco's Advanced Malware Protection, Cisco Collective Security Intelligence, Cisco Outbreak Filters, Talos Security Intelligence and Research Group, and AMP Threat Grid technologies, including Cisco AMP for Endpoints, Cisco AMP for Networks (also referred to by Cisco as "NGIPS"), Cisco AMP for ASA with FirePOWER Services, Cisco AMP Private Cloud Virtual Appliance, Cisco AMP for CWS, ESA, or WSA, Cisco AMP for Meraki MX, Cisco AMP Threat Grid. Finjan seeks entry of judgment that Cisco has infringed and is infringing the Asserted Patents, a preliminary and permanent injunction from infringing the Asserted Patents, an accounting of all infringing sales and revenues, damages of no less than a reasonable royalty consistent with proof, and enhanced damages for willful infringement, costs, interest, and reasonable attorneys' fees under 35 U.S.C. § 285. This action is before the Honorable Beth Labson Freeman. Details on procedures prior to December 2018 are disclosed in Note 8 of our Annual Report on Form 10-K for the fiscal year ended December 31, 2018. On February 5, 2019, the Court issued an Order Construing Additional Claims in U.S. Patent Nos. 6,154,844; 6,804,780; and 7,647,633. On April 15, 2019, Cisco filed a Motion for Reconsideration of the Court's Order Construing Additional Claims with respect to Patent No. 7,647,633, and on April 30, 2019, the Court granted Cisco's Motion for Reconsideration. On May 7, 2019, the Court issued an Order modifying the dates for summary judgment briefing, so that the opening summary judgment briefs were filed on October 22, 2019, oppositions on November 12, 2019, and replies on November 26, 2019. Finjan filed a motion for summary judgment of validity of U.S. Patent Nos. 6,154,844, 7,647,633, and 8,677,494, and Cisco filed a partial motion for summary judgment of non-infringement of U.S. Patent Nos. 6,804,780, 7,647,633, and 8,141,154, and of no pre-suit damages. The hearing on summary judgment motions was held on January 9, 2020. On February 3, 2020, the Court denied Finjan's Motion for Summary Judgment of validity. The final pretrial conference is scheduled for April 30, 2020 and a jury trial is scheduled to commence on June 1, 2020. There can be no assurance that Finjan will be successful in settling or litigating these claims.

***Finjan, Inc. v. ESET SPOL S.R.O. et al., Docket Nos. 2 Ni 53/16 (EP). 4c O 33/16 (German Litigations)***

Finjan filed a patent infringement lawsuit against ESET SPOL. S.R.O., a Slovak Republic Corporation, and ESET Deutschland GmbH (collectively "ESET") in the Düsseldorf District Court of Germany on July 1, 2016, asserting that ESET infringed Finjan's European Patent No. 0 965 094 B1 ("the '094 Patent"), through the offering and/or delivering to customers in the Federal Republic of Germany software products including ESET's ThreatSense, ESET Advanced Heuristic, ESET DNA Signature, ESET LiveGrid technologies, including ESET's Home Users, Small Office, and Business product lines and ESET services. Finjan has sought cease and desist orders against both defendants for offering or delivering the challenged products, under penalty of a fine for each violation of such orders, for orders providing Finjan with profit information regarding the challenged products, and for damages which Finjan has suffered or shall suffer as a result of ESET offering or delivering the challenged products since November 1, 2008. The infringement hearing was held on October 5, 2017. On November 24, 2016, ESET filed a nullity action with the Federal German Patent Court (the "Court"). On November 9, 2017, the Düsseldorf District Court issued a formal order to take evidence through the opinion of a court-appointed expert. The infringement proceedings in the Düsseldorf District Court were later stayed pending resolution in the nullity action. Finjan responded to the nullity action contesting the nullity action completely and requesting the Court to reject the action and impose the cost of the proceedings to the claimant. The nullity hearing was held on November 29, 2018, and the Court issued its decision in German determining the claims at issue to be unpatentable. Finjan filed an appeal of the Court's judgment with the Federal Court of Justice of Germany on April 25, 2019, and its Appeal Brief on July 25, 2019. ESET's Reply to the Appeal Brief was filed on November 29, 2019. There can be no assurance that Finjan will be successful in settling or litigating these claims.

***Finjan, Inc. v. SonicWall, Inc., Case No. 5:17-cv-04467-BLF (N.D. Cal.)***

Finjan filed a patent infringement lawsuit against SonicWall, Inc. ("SonicWall") in the United States District Court for the Northern District of California on August 4, 2017, asserting that SonicWall is directly and indirectly infringing certain claims of Finjan's U.S. Patent Nos. 6,154,844; 7,058,822; 6,804,780; 7,613,926; 7,647,633; 8,141,154; 8,677,494; 7,975,305; 8,225,408;

and 6,965,968 (the "Asserted Patents") through the manufacture, use, sale, importation, and/or offer for sale of its products and services, including but not limited to, Appliance Products utilizing Capture ATP and/or Gateway Security Services and Email Security Products utilizing Capture ATP and/or Gateway Security Services. Finjan seeks entry of judgment that SonicWall has infringed and is infringing the Asserted Patents, a preliminary and permanent injunction from infringing the Asserted Patents, an accounting of all infringing sales and revenues, damages of no less than a reasonable royalty consistent with proof, and enhanced damages for willful infringement, costs, interest, and reasonable attorneys' fees under 35 U.S.C. § 285. This action is before the Honorable Beth Labson Freeman. Details on procedures prior to December 2018 are disclosed in Note 8 of our Annual Report on Form 10-K for the fiscal year ended December 31, 2018. A claim construction hearing was held on March 1, 2019, and the Court issued an Order Construing Claims in U.S. Patent Nos. 6,154,844; 6,965,968; 7,058,822; 7,613,926; 7,647,633; and 8,225,408 on March 26, 2019. On April 30, 2019, SonicWall filed a motion for leave to Conduct Additional Claim Construction Proceedings, which the Court denied on May 7, 2019. The parties participated in a court-ordered mediation on September 18, 2019, without resolution. On October 3, 2019, SonicWall filed a motion for leave to Conduct Additional Claim Construction Proceedings, which Finjan opposed on October 7, 2019. On October 11, 2019, the Court granted in part SonicWall's motion for leave to conduct additional claim construction proceedings, and set a Markman hearing for January 17, 2020. On December 12, 2019, the Court vacated the January 17, 2020 Markman hearing pursuant to stipulation between the parties. A final pretrial conference is scheduled for March 18, 2021, and a jury trial to commence on May 3, 2021. There can be no assurance that Finjan will be successful in settling or litigating these claims.

***Finjan, Inc. v. Bitdefender Inc., et al., Case No. 4:17-cv-04790-HSG (N.D. Cal.)***

Finjan filed a patent infringement lawsuit against Bitdefender Inc. and Bitdefender S.R.L. ("Bitdefender") in the United States District Court for the Northern District of California on August 16, 2017, asserting that Bitdefender is directly and indirectly infringing certain claims of Finjan's U.S. Patent Nos. 6,804,780; 7,930,299; 8,141,154; and 8,677,494 (the "Asserted Patents") through the manufacture, use, sale, importation, and/or offer for sale of its products and services, including but not limited to, Total Security, Family Pack, Internet Security, Antivirus Plus, Security for XP and Vista, Antivirus for Mac, Mobile Security, GravityZone Enterprise Security, GravityZone Elite Security, GravityZone Advanced Business Security, GravityZone Business Security, Hypervisor Introspection, Security for AWS, Cloud Security for MSP, GravityZone for xSP, and BOX. Finjan seeks entry of judgment that Bitdefender has infringed and is infringing the Asserted Patents, a preliminary and permanent injunction from infringing the Asserted Patents, an accounting of all infringing sales and revenues, damages of no less than a reasonable royalty consistent with proof, and enhanced damages for willful infringement, costs, interest, and reasonable attorneys' fees under 35 U.S.C. § 285. This action is before the Honorable Haywood S. Gilliam, Jr. Details on procedures prior to December 2018 are disclosed in Note 8 of our Annual Report on Form 10-K for the fiscal year ended December 31, 2018. A claim construction hearing was held on June 6, 2018. A Claim Construction Order issued on February 14, 2019 and a further case management conference was held on March 12, 2019. On June 18, 2019, Bitdefender filed a Motion to Amend/Correct Counterclaims, Finjan opposed the motion on July 2, 2019, and on July 9, 2019, Bitdefender replied. The matter was taken under submission by the Court. Pursuant to the Court's Scheduling Order, dispositive motions were filed on November 7, 2019, oppositions on December 5, 2019, and replies on December 19, 2019. A jury trial was set to commence on April 6, 2020. On January 23, 2020, the parties filed a Joint Stipulation of Dismissal with Prejudice pursuant to a confidential settlement agreement between the parties, which the Court granted on the same day.

***Finjan, Inc. v. Juniper Networks, Inc., Case No. 3:17-cv-05659-WHA (N.D. Cal.)***

Finjan filed a patent infringement lawsuit against Juniper Networks, Inc. ("Juniper") in the United States District Court for the Northern District of California on September 29, 2017, asserting that Juniper is directly and indirectly infringing certain claims of Finjan's U.S. Patent Nos. 6,154,844; 6,804,780; 7,647,633; 7,613,926; 8,141,154; 8,677,494; 7,975,305; and 8,225,408 (the "Asserted Patents") through the manufacture, use, sale, importation, and/or offer for sale of its products and services, including but not limited to, SRX Gateways, SRX Gateways using Sky ATP, and Contrail. Finjan seeks entry of judgment that Juniper has infringed and is infringing the Asserted Patents, has and is inducing infringement, a preliminary and permanent injunction from infringing the Asserted Patents, an accounting of all infringing sales and revenues, damages of no less than a reasonable royalty consistent with proof, and enhanced damages for willful infringement, costs, interest, and reasonable attorneys' fees under 35 U.S.C. § 285. This action was before the Honorable William H. Alsup. Details on procedures prior to January 2019 are disclosed in Note 8 of our Annual Report on Form 10-K for the fiscal year ended December 31, 2018. On January 10, 2019, subsequent to the December 2018 trial and jury verdict concerning the '494 Patent, the parties filed and briefed Motions for Judgment as a Matter of Law ("JMOL"). On March 11, 2019, the Court denied Finjan's motion for JMOL, a new trial, and certification for interlocutory appeal, and held Juniper's renewed motion for JMOL in abeyance. A trial for Juniper's equitable defenses, counterclaims, and Section 101 defense was set for July 29, 2019, but was subsequently vacated. On March 28, 2019, Juniper filed a Motion for Sanctions, and on March 29, 2019, Finjan filed a Rule 60(b) Motion for Relief from Judgment. Hearings on these motions were heard on May 9, 2019. On May 22, 2019, the Court issued an Order denying Finjan's Rule

60(b) motion, and held in abeyance Juniper's motion for sanctions. The second round of early summary judgment motions were briefed during February, March, and April, with a hearing on May 2, 2019. Finjan moved for summary judgment of infringement of Claim 1 of the '154 Patent, and Juniper moved for summary judgment of non-infringement of Claim 9 of the '780 Patent. On May 8, 2019 the Court denied Finjan's motion, granted Juniper's motion, issued an Order to Show Cause why summary judgment should not be granted regarding Claim 1 of the '154 Patent, and set a jury trial to commence on October 21, 2019. The parties filed responses to the Order to Show Cause, and filed respective replies to the same. On June 19, 2019, the Court entered the Fourth Amended Case Management Order setting a hearing on summary judgment motions for September 12, 2019, a hearing on *Daubert* motions for October 3, 2019, and a pretrial conference for October 9, 2019. A court-ordered settlement conference was held before U.S. Magistrate Judge Nathanael M. Cousins on July 9, 2019. On July 23, 2019, the Court issued an Order re the Order to Show Cause granting summary judgment of noninfringement of Claim 1 of the '154 Patent. On August 2, 2019, the parties filed a Joint Stipulation of Dismissal with Prejudice with respect to specific patents, claims, and counterclaims. On August 6, 2019, the Court issued an Order re Proposed Judgment, requesting the parties to jointly file a proposed judgment, and on August 8, 2019 the parties filed competing proposed judgments. On August 13, 2019, the Court entered Judgment in the case. On September 9, 2019, Finjan filed a Notice of Appeal to the Court of Appeals for the Federal Circuit (19-2405). Finjan's Opening Brief was filed on December 18, 2019, Juniper's Response is due on March 27, 2020, and the projected date for Finjan's Reply is April 17, 2020. There can be no assurance that Finjan will be successful in settling or litigating these claims.

***Finjan, Inc. v. Zscaler, Inc., Case No. 3:17-cv-06946-JST (N.D. Cal.)***

Finjan filed a patent infringement lawsuit against Zscaler, Inc. ("Zscaler") in the United States District Court for the Northern District of California on December 5, 2017, asserting that Zscaler is directly and indirectly infringing certain claims of Finjan's U.S. Patent Nos. 6,804,780; 7,647,633; 8,677,494; and 7,975,305 (the "Asserted Patents") through the manufacture, use, sale, importation, and/or offer for sale of its products and services, including, but not limited to, 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. Finjan seeks entry of judgment that Zscaler has and continues to infringe the Asserted Patents, has and continues to induce infringement, a preliminary and permanent injunction from infringing the Asserted Patents, an accounting of all infringing sales and revenues, damages of no less than a reasonable royalty, enhanced damages for willful infringement, costs, interest, and reasonable attorneys' fees under 35 U.S.C. § 285. This action is before the Honorable Jon S. Tigar. Zscaler filed its Answer and Counterclaims on February 12, 2018, and its Amended Answer and Counterclaims on March 19, 2018. On April 2, 2018, Finjan filed an Answer to Zscaler's Counterclaim. On March 21, 2019, Zscaler filed a Motion to Stay the case, Finjan filed its Opposition on April 4, 2019, and Zscaler filed its Reply on April 11, 2019. The Court set a claim construction tutorial for May 14, 2019, and a claim construction hearing for May 28, 2019. A summary judgment hearing was scheduled for November 18, 2019. On May 1, 2019, the parties filed a Joint Stipulation of Dismissal with Prejudice pursuant to a confidential settlement agreement between the parties, which the Court granted on the same day.

***Finjan, Inc. v. Trustwave Holdings, Inc., C.A. No. N18C-04-006 WCC-CCLD (Del. Super. Ct.)***

Finjan filed a breach of contract lawsuit against Trustwave Holdings, Inc. ("Trustwave") in the Superior Court of Delaware on April 4, 2018, asserting that Trustwave breached a patent licensing agreement with Finjan by failing to pay owed royalties, failing to comply with audit procedures as provided by that licensing agreement, and for failing to pay for that audit. Finjan seeks entry of judgment that Trustwave be ordered to pay damages due to the breach of the agreement and the cost of the audit, including interest, and that Finjan be awarded attorneys' fees. This action is before the Honorable William C. Carpenter, Jr. Trustwave moved to dismiss the Complaint on June 8, 2018, and a hearing on the Motion to Dismiss was heard on November 19, 2018. On February 11, 2019, Judge Carpenter issued an Order denying Trustwave's Motion to Dismiss and permitting Finjan's Breach of Contract suit to proceed. On February 19, 2019, Trustwave filed its Answer and Affirmative Defenses to Finjan's Complaint. A schedule has not yet been set in the case. Discovery is ongoing. There can be no assurance that Finjan will be successful in settling or litigating these claims.

***Finjan, Inc. v. Check Point et al., Case No. 3:18-cv-02621-WHO (N.D. Cal.)***

Finjan filed a patent infringement lawsuit against Check Point Software Technologies Inc. and Check Point Software Technologies Ltd. (collectively "Check Point") in the United States District Court for the Northern District of California on May 3, 2018, asserting that Check Point is directly and indirectly infringing certain claims of Finjan's U.S. Patent Nos. 6,154,844; 6,965,968; 7,418,731; 7,647,633; 8,079,086; 8,141,154; and 8,677,494 (the "Asserted Patents") through the manufacture, use, sale, importation, and/or offer for sale of its products and services, including, but not limited to, Check Point's Next Generation Firewall and Security Gateway products, Blade products, CloudGuard products, Endpoint Protection

products, Advanced Threat Prevention products, Mobile Security products, ZoneAlarm products, Threat Intelligence products, Security Management and Policy Management products, ThreatCloud Managed Security Service products, Smart-1 Appliance products, products using SandBlast technology, and products utilizing the Gaia Operating System. Finjan seeks entry of judgment that Check Point has infringed, is infringing, has induced infringement and is inducing infringement of the Asserted Patents, a preliminary and permanent injunction from infringing, or inducing the infringement of the Asserted Patents, an accounting of all infringing sales and revenues, damages of no less than a reasonable royalty consistent with proof, and enhanced damages for willful infringement, costs, interest, and reasonable attorneys' fees under 35 U.S.C. § 285. This action is before the Honorable William H. Orrick. On July 16, 2018, Check Point Software Technologies Inc. filed its Answer. A case management conference was held on August 14, 2018. On November 21, 2018, Check Point Software Technologies Inc. filed its Amended Answer. On December 5, 2018, Finjan filed a Motion to Strike Check Point's Affirmative Defenses of lack of standing for the '154 Patent, prosecution laches, and inequitable conduct for the '154 and '494 Patents. On January 8, 2019, Check Point Software Technologies Ltd. filed its answer and affirmative defenses. On January 25, 2019, the Court granted Finjan's Motion to Strike Check Point's Affirmative Defenses of lack of standing and prosecution laches with leave to amend its prosecution laches defense and denied the Motion to Strike with respect to inequitable conduct. On February 12, 2019, Check Point filed a Motion for Leave to Amend its Answer and Affirmative Defenses to include inequitable conduct defenses for the '086, '633, and '844 Patent, and unenforceability defense based on a terminal disclaimer filed for the '086 Patent. Finjan's Opposition was filed on February 26, 2019, and Check Point's Reply was filed on March 5, 2019. On April 2, 2019, the Court issued an Order granting Check Point's Motion for Leave to Amend its Answer and Affirmative Defenses, and on April 3, 2019, Check Point filed its Second Amended Answer and Affirmative Defenses. Between May and November 2019, the parties engaged in briefing regarding Check Point's motions to strike Finjan's amended infringement contentions. The Court issued an order on January 17, 2020 granting in part the motion to strike Finjan's second amended infringement contentions. The Court also issued a notice of intent to appoint a special master to address the remainder of the dispute and on February 14, 2020 appointed Magistrate Elizabeth Laporte as the special master.. There can be no assurance that Finjan will be successful in settling or litigating these claims.

***Finjan, Inc. v. Rapid7, Inc. et al, Case No. 1:18-cv-01519-MN (D. Del)***

Finjan filed a patent infringement lawsuit against Rapid7, Inc. ("Rapid7") in the United States District Court for the District of Delaware on October 1, 2018, asserting that Rapid7 is directly and indirectly infringing certain claims of Finjan's U.S. Patent Nos. 7,757,289; 7,613,918; 7,975,305; 8,079,086; 8,141,154; 8,225,408; and 8,677,494 (the "Asserted Patents") through the manufacture, use, sale, importation, and/or offer for sale of its products and services, including, but not limited to, Rapid7's InsightIDR, InsightVM (Nexpose), InsightAppSec, AppSpider, and Metasploit and Komand technologies, including Rapid7 Insight Platform products. Finjan seeks entry of judgment that Rapid7 has infringed, is infringing, has induced infringement and is inducing infringement of the Asserted Patents, a preliminary and permanent injunction from infringing, or inducing the infringement of the Asserted Patents, an accounting of all infringing sales and revenues, damages of no less than a reasonable royalty consistent with proof, and enhanced damages for willful infringement, costs, interest, and reasonable attorneys' fees under 35 U.S.C. § 285. This action is before the Honorable Maryellen Noreika. The Court held claim construction hearings on January 15 and January 22, 2020 and issued a claim construction order on February 25, 2020. The deadline for dispositive and *Daubert* motions is August 7, 2020, a pretrial conference is set for February 8, 2021, and trial for February 22, 2021. There can be no assurance that Finjan will be successful in settling or litigating these claims.

***Finjan, Inc. v. Fortinet, Inc., Case No. 3:18-cv-06555-JD (N.D. Cal)***

Finjan filed a patent infringement lawsuit against Fortinet, Inc. ("Fortinet") in the United States District Court for the Northern District of California on October 26, 2018, asserting that Fortinet infringes certain claims of Finjan's U.S. Patent Nos. 6,154,844; 6,965,968; 7,058,822; 7,418,731; 7,647,633; 7,975,305; 8,079,086; 8,225,408; and 8,677,494 (the "Asserted Patents") through the manufacture, use, sale, importation, and/or offer for sale of its products and services, including, but not limited to, Fortinet's FortiGate, FortiManager, FortiAnalyzer, FortiSiem, FortiSandbox, FortiMail, FortiWeb, FortiCache, and FortiClient technologies, including Fortinet Security Fabric products. Finjan seeks entry of judgment that Fortinet has infringed, is infringing, has induced infringement and is inducing infringement of the Asserted Patents, a preliminary and permanent injunction from infringing, or inducing the infringement of the Asserted Patents, an accounting of all infringing sales and revenues, damages of no less than a reasonable royalty consistent with proof, and enhanced damages for willful infringement, costs, interest, and reasonable attorneys' fees under 35 U.S.C. § 285. This action is before the Honorable James Donato. On December 17, 2018, the Court ordered Finjan to show cause in writing by December 27, 2018, as to why the case should not be stayed pending resolution of the other actions where overlapping patents are being actively litigated and permitted Fortinet to file a statement of its views by January 2, 2019. Fortinet's Answer and Counterclaims were filed on December 19, 2018. On December 27, 2018, Finjan filed its Response to Order to Show Cause, opposing a stay, Fortinet filed its Response requesting a stay on January 2, 2019, and on January 3, 2019, the Court held a hearing regarding the stay. On January 7, 2019, the Court temporarily stayed the case until the next status conference, on February 21, 2019. At the February 21, 2019 status conference,

and subsequently in its Minute Order dated February 25, 2019, the Court directed the parties to file by February 28, 2019, a joint statement identifying the patents and claims at issue and unique in the case. On February 26, 2019, Finjan filed its answer to Fortinet's counterclaims. On September 11, 2019, Finjan filed an updated status report, and Fortinet responded on September 13, 2019. The Court has yet to decide if it will further stay the case pending resolution of other Finjan actions. There can be no assurance that Finjan will be successful in settling or litigating these claims.

***Finjan, Inc. v. Qualys Inc., Case No. 4:18-cv-07229-YGR (N.D. Cal.)***

Finjan filed a patent infringement lawsuit against Qualys Inc. ("Qualys") in the United States District Court for the Northern District of California on November 29, 2018, asserting that Qualys infringes certain claims of Finjan's U.S. Patent Nos. 6,154,844; 8,677,494; 7,975,305; 8,225,408; 6,965,968; 7,418,731; and 8,141,154 (the "Asserted Patents") through the manufacture, use, sale, importation, and/or offer for sale of its products and services, including, but not limited to, Qualys' products and services that utilize Vulnerability Management, Threat Protection, Continuous Monitoring, Indicators of Compromise, Container Security, Web App Firewall, Web App Scanning, and Compliance Monitoring, including Qualys Cloud Platform products. Finjan seeks entry of judgment that Qualys has infringed, is infringing, has induced infringement and is inducing infringement of the Asserted Patents, a preliminary and permanent injunction from infringing, or inducing the infringement of the Asserted Patents, an accounting of all infringing sales and revenues, damages of no less than a reasonable royalty consistent with proof, and enhanced damages for willful infringement, costs, interest, and reasonable attorneys' fees under 35 U.S.C. § 285. This action is before the Honorable Yvonne Gonzalez Rogers. On January 23, 2019, Qualys filed its Answer and Counterclaims. On February 13, 2019, Finjan filed its Answer to Qualys' Counterclaims. On March 6, 2019 Qualys filed its First Amended Answer and Counterclaims, and Finjan filed its Answer to Counterclaims on March 20, 2019. An initial case management conference was held on March 4, 2019. At that conference, the Court ordered Finjan to submit information identifying common asserted claims in other cases, as well as overlapping claim construction terms and definitions. Finjan filed its submission on March 15, 2019. On July 16, 2019, the Court issued an Order setting the claim construction hearing for May 1, 2020. There can be no assurance that Finjan will be successful in settling or litigating these claims.

**B. Proceedings before the United States Patent & Trademark Office (USPTO)**

***Ex Parte* Reexamination Proceedings**

As defined by the USPTO, an *Ex Parte* Reexamination is a "proceeding in which any person may request reexamination of a U.S. Patent based on one or more prior patents or printed publications. A requester who is not the patent owner has limited participation rights in the proceedings."

**U.S. Patent No. 8,015,182 (Assignee, Finjan, Inc.)**

A third-party request for *Ex Parte* Reexamination of claims 8-11, 13 of U.S. Patent No. 8,015,182 was filed on September 16, 2016 by an anonymous party and assigned Reexamination Control Number 90/013,812. The request for reexamination was granted on October 17, 2016. On December 19, 2016, Finjan filed a Petition to consider pre-institution argument requesting, *inter alia*, that the Director rescind and/or terminate the reexamination pursuant to 35 U.S.C. § 325(d). A decision dismissing Finjan's petition to vacate the reexamination order was mailed on March 27, 2017. A Petition for Writ of Mandamus was filed with the Court of Appeal for the Federal Circuit (CAFC) requesting review of the Office's Dismissal. The CAFC denied the petition. A non-final Office Action rejecting claims 8-11 and 13 was issued on April 13, 2017. An Examiner Interview was conducted on May 23, 2017 and a Response to the non-final Office Action was filed on June 13, 2017. A final Office Action was mailed November 9, 2017 and a Response was filed January 8, 2018. An Advisory Action was mailed February 8, 2018 and a Notice of Appeal was filed February 12, 2018. An Appeal Brief was filed on April 12, 2018. An Examiner's Answer was mailed on May 14, 2018 and a Reply Brief and Request for Oral Hearing were filed on July 11, 2018. Oral arguments were presented before the PTAB on September 12, 2018 and a Decision reversing the Examiner's rejection of claims 8-11 and 13 was issued on October 1, 2018. On January 24, 2019, a Notice of Intent to Issue *Ex Parte* Reexamination Certificate confirming the patentability of claims 8-11 and 13 was issued by the Patent Office. A Reexamination Certificate was issued on March 4, 2019.

**U.S. Patent No. 7,975,305 (Assignee, Finjan, Inc.)**

A third-party request for *Ex Parte* Reexamination of claims 1, 2, 5 and 13 of U.S. Patent No. 7,975,305 was filed on December 11, 2015 by Proofpoint, Inc. and assigned Reexamination Control Number 90/013,660. The request for reexamination was granted on January 19, 2016 and a non-final Office Action was mailed on April 12, 2016. A Response to the non-final Office Action was filed on June 13, 2016. A Final Action was mailed on August 24, 2016 with a Response due October 24, 2016. A Response to the Final Action was filed on October 24, 2016 and a second interview with the Patent Office was conducted. The Patent Office issued an Advisory Action maintaining the rejections. A Notice of Appeal was filed on November 11, 2016 and

an Appeal Brief was filed on January 23, 2017. An Examiner's Answer was mailed on March 29, 2017. Finjan's Reply Brief and Request for Oral Hearing were filed on May 30, 2017. Oral Hearing was held December 12, 2017. On July 2, 2018 the Patent Trial and Appeal Board affirmed the Examiner in a 2-1 decision. A Notice of Appeal to the Federal Circuit was filed on September 4, 2018 (Case No. 18-2354). On December 21, 2018, Finjan filed its opening brief; on February 13, 2019, the appellee filed its responsive brief; and on March 20, 2019, Finjan filed its reply brief. Oral argument was heard on September 4, 2019. On September 6, 2019 the Federal Circuit issued a Judgment pursuant to Rule 36 affirming the Patent Office.

### ***Inter Partes Review Proceedings***

As defined by the USPTO, *Inter Partes* Review ("IPR") is a trial proceeding conducted at the Patent Trial and Appeal Board (PTAB or Board) to review the patentability of one or more claims in a patent only on a ground that could be raised under 35 U.S.C. §§ 102 or 103, and only on the basis of prior art consisting of patents or printed publications. For first-inventor-to-file patents, the IPR process begins with a third party (a person who is not the owner of the patent) filing a petition after the later of either: (1) nine months after the grant of the patent or issuance of a reissue patent; or (2) if a post grant review is instituted, the termination of the post grant review. These deadlines do not apply to first-to-invent patents. The patent owner may file a preliminary response to the petition ("POPR"). An IPR may be instituted upon a showing that there is a reasonable likelihood that the petitioner would prevail with respect to at least one claim challenged. If the proceeding is instituted and not dismissed, a final determination by the Board will be issued within one year (extendable for good cause by six months). The procedure for conducting IPR took effect on September 16, 2012, and applies to any patent issued before, on, or after September 16, 2012.

#### **U.S. Patent No. 8,141,154 (Assignee, Finjan, Inc.)**

On July 3, 2015, April 19, 2016, and May 26, 2016, Symantec Corporation filed three (3) separate Petitions for IPR of U.S. Patent No. 8,141,154 (IPR2015-01547; IPR2016-00919; IPR2016-01071). On September 25, 2015 and November 5, 2015, Palo Alto Networks Inc. filed two (2) separate Petitions for IPR of U.S. Patent No. 8,141,154 (IPR2015-01979; IPR2016-00151).

First, with respect to IPR2015-01547 filed on July 3, 2015 by Symantec, Finjan filed a POPR to the Petition on October 19, 2015, and the PTAB denied Symantec's Petition to institute IPR proceedings on January 14, 2016. On February 16, 2016, Symantec filed a Request for Rehearing with respect to IPR2015-01547, and on February 25, 2016, the PTAB denied Symantec's Request for Rehearing. On November 5, 2015, in IPR2016-00151, Palo Alto Networks filed a motion for joinder with IPR2015-01547, that the PTAB denied on April 20, 2016.

Next, in IPR2015-01979 filed on September 25, 2015 by Palo Alto Networks, Finjan filed a POPR to the Petition on December 29, 2015 and the PTAB granted institution of IPR proceedings on March 21, 2016. On April 5, 2016, Finjan filed a Partial Request for Rehearing, and on April 19, 2016, the PTAB denied Finjan's Partial Request for Rehearing. Symantec moved to join its Petition in IPR2016-00919 with the Palo Alto Networks' Petition in IPR2015-1979 on April 19, 2016. The PTAB granted the motion for joinder on September 8, 2016, with the controlling case number being IPR2015-01979. On July 12, 2016, Finjan submitted a Patent Owner Response to the Petition. An oral hearing was held for IPR2015-01979 on December 15, 2016, and on March 15, 2017, the PTAB issued a Final Written Decision maintaining the validity of all instituted claims. On April 14, 2017, Palo Alto Networks filed a Request for Rehearing. On May 19, 2017, the PTAB denied Palo Alto Networks' Request for Rehearing.

Finally, regarding IPR2016-00151 filed on November 5, 2015 by Palo Alto Networks, Finjan filed a POPR on February 17, 2016, and on April 20, 2016, the PTAB instituted trial on claims 1-8, 10, and 11, denied institution on the remaining claims. On May 4, 2016, Finjan filed a Partial Request for Rehearing, and on June 2, 2016, the PTAB denied Finjan's Request for Rehearing. Symantec moved to join its Petition in IPR2016-01071 with the Palo Alto Networks' Petition in IPR2016-00151 on May 19, 2016, and the PTAB granted the motion for joinder on September 8, 2016, with the controlling case number being IPR2016-00151. On June 16, 2016, the parties filed a Joint Notice to Amend the Scheduling Order. On August 31, 2016, Finjan filed its Patent Owner Response to Palo Alto Network's Petition. An oral hearing was held for IPR2016-00151 on January 24, 2017, and on March 15, 2017, the PTAB issued a Final Written Decision maintaining the validity of all instituted claims. On April 14, 2017, Palo Alto Networks filed a Request for Rehearing. On May 19, 2017, the PTAB denied Palo Alto Networks' Request for Rehearing.

Palo Alto Networks and Symantec Corp. filed Notices of Appeals for IPR2015-01979/IPR2016-00919 and IPR2016-00151/IPR2016-01071 to the United States Court of Appeals for the Federal Circuit on July 19, 2017 (Case Nos. 17-2314 and 17-2315). On July 24, 2017, the Federal Circuit consolidated the two appeals. On October 30, 2017, Palo Alto Networks and Symantec Corp. filed their Opening Appellant Brief. Finjan's Responsive Brief was filed on December 20, 2017. Palo Alto Networks and Symantec Corp.'s Reply Brief was filed on January 25, 2018. On March 7, 2018, Symantec filed a Motion to Withdraw from appeal numbers 17-2314 and 17-2315. On March 13, 2018, the Federal Circuit granted Symantec's Motion to

Withdraw. Oral argument was heard on June 6, 2018. On November 19, 2018, the Federal Circuit upheld the PTAB's decision in IPR2015-01979 and vacated the PTAB's decision in IPR2016-00151 and remanded the proceeding to be consistent with the Supreme Court's decision in *SAS Institute*. On January 23, 2019, the PTAB modified its institution decision to include review of dependent claims 9 and 12. Petitioner's Institution Opening Brief was filed on February 13, 2019, Patent Owner's Response was filed on March 6, 2019, Petitioner's Reply was filed on March 13, 2019, and Patent Owner's Sur-reply was filed on March 20, 2019. Oral argument was heard on March 26, 2019. On May 15, 2019, the PTAB issued its Final Written Decision on Remand maintaining the validity of claims 1-12. On July 17, 2019, Palo Alto Networks filed a Notice of Appeal for IPR2016-00151 to the United States Court of Appeals for the Federal Circuit (Case No. 19-2151). Palo Alto Networks' filed its Opening Brief on November 27, 2019, and the Director of the USPTO intervened in the appeal on January 6, 2020. Finjan's Response Brief is due on March 20, 2020, Intervenor's Brief is due on March 4, 2020, and Palo Alto Networks' Reply is due on April 10, 2020. No date for oral argument has been set.

**U.S. Patent No. 8,677,494 (Assignee, Finjan, Inc.)**

On September 10, 2015, Symantec filed a Petition for IPR of U.S. Patent No. 8,677,494 (IPR2015-01892). Finjan filed a POPR to the Petition on December 28, 2015. On March 18, 2016, the PTAB granted Symantec's Petition to institute the IPR proceeding on claims 1, 2, 5, 6, 10, 11, 14, and 15. On April 1, 2016, Finjan filed a Request for Rehearing. The PTAB denied the Request for Rehearing on May 23, 2016. On April 14, 2016, Blue Coat Systems, Inc. filed a Petition for IPR of U.S. Patent No. 8,677,494 (IPR2016-00890), and a Motion for Joinder to Symantec Corp.'s Petition for IPR (IPR2015-01892). The PTAB granted Blue Coat's Motion for Joinder. An oral hearing was held on December 16, 2016. On March 15, 2017, the PTAB issued a Final Written Decision maintaining the validity of claims 5, 10, 11, 14, and 15 and invalidating claims 1, 2, and 6.

On November 6, 2015, Palo Alto Networks Inc. filed a Petition for IPR of U.S. Patent No. 8,677,494 (IPR2016-00159). Finjan filed a POPR to the Petition on February 17, 2016. On May 13, 2016, the PTAB granted institution of IPR. On May 27, 2016, Finjan filed a Request for Rehearing, and on June 23, 2016 the PTAB denied Finjan's Request for Rehearing. On June 10, 2016, Blue Coat Systems, Inc. filed a Petition for IPR of U.S. Patent No. 8,677,494 (IPR2016-01174), and a Motion for Joinder to Palo Alto Networks, Inc.'s Petition for IPR (IPR2016-00159). The PTAB granted Blue Coat's Motion for Joinder. On June 27, 2016, the parties filed a Joint Notice to Amend the Scheduling Order. On August 12, 2016, Finjan filed its Patent Owner Response to Palo Alto Network's Petition. An oral hearing was held on February 16, 2017. On April 11, 2017, the PTAB issued a Final Written Decision stating that claims 3 - 5 and 10 - 15 have not been shown to be unpatentable, and that claims 1, 2, and 6 have been shown to be unpatentable. Finjan filed a Request for Rehearing on May 11, 2017, and on July 17, 2017, the PTAB denied Finjan's request.

Symantec filed a Notice of Appeal to the United States Court of Appeals for the Federal Circuit ("CAFC") on May 16, 2017 from the Final Written Decision in IPR2015-01892, and on May 18, 2017, Finjan filed its Notice of Appeal to the CAFC (Case Nos. 17-2034 and 17-2047). Symantec and Blue Coat filed their Opening Appellant Brief on August 25, 2017. Palo Alto Networks and Blue Coat Systems LLC filed a Notice of Appeal from the Final Written Decision in IPR2016-00159 to the CAFC on September 14, 2017, and on September 28, 2017, Finjan filed its Notice of Appeal (Case Nos. 17-2543 and 17-2623). The Federal Circuit consolidated the appeal with Case No. 17-2034. Palo Alto Networks and Blue Coat Systems filed their Opening Appellant Brief on December 29, 2017. Finjan filed its Cross-Appellant Principal and Response Brief on February 7, 2018. On March 8, 2018, Symantec and Blue Coat filed a Motion to Withdraw from appeal numbers 17-2034, 17-2047, 17-2543 and 17-2623. On March 13, 2018, the Federal Circuit granted Symantec and Blue Coat's Motion to Withdraw and deconsolidated the appeal (dismissing Case No. 17-2034 and leaving consolidated Case No. 17-2543 as the lead case). On April 12, 2018, the Patent Office intervened in the appeal. Palo Alto Networks filed its Reply Brief on April 18, 2018. The Patent Office's Reply Brief was filed on May 22, 2018, and Finjan's Reply Brief was filed on June 5, 2018. Oral argument was heard on December 6, 2018. On July 2, 2019, the Federal Circuit issued an Opinion confirming the Final Written Decision of the PTAB maintaining the validity of claims 10, 11, and 15 and invalidating claims 1, 2, and 6.

**U.S. Patent No. 7,975,305 (Assignee, Finjan, Inc.)**

On July 4, 2017, ESET, LLC and ESET SPOL S.R.O. (collectively "ESET") filed a Petition for IPR of U.S. Patent No. 7,975,305 (IPR2017-01738). Finjan filed its POPR on November 3, 2017. On January 31, 2018, the PTAB instituted IPR on claims 1-25. Finjan's Patent Owner Response was filed on August 21, 2018 and Petitioner's Reply was filed on November 5, 2018. Oral argument was heard on December 3, 2018. On January 24, 2019, the PTAB issued a Final Written Decision maintaining the validity of all instituted claims. On March 25, 2019, ESET filed a Notice of Appeal to the United States Court of Appeals for the Federal Circuit (Case No. 19-1716). ESET filed its Opening Brief on September 6, 2019. On October 18, 2019 the United States Patent and Trademark Office ("USPTO") filed a Notice of Intervention. Finjan filed its Response Brief and the USPTO filed its Intervenor Brief on November 15, 2019, and ESET filed its Reply on December 20, 2019. No date for oral argument has been set.

**U.S. Patent No. 7,647,633 (Assignee, Finjan, Inc.)**

On December 22, 2017, Cisco Systems, Inc. filed a Petition for IPR of U.S. Patent No. 7,647,633 (IPR2018-00391). Finjan's POPR was filed on March 28, 2018. On June 5, 2018, the PTAB instituted IPR on claims 1, 4, 8, and 11-14. Finjan's Patent Owner Response was filed on September 10, 2018, and Petitioner's Reply was filed on December 10, 2018, and Finjan's Sur-Reply was filed on January 30, 2019. Oral argument was heard on March 6, 2019. On May 23, 2019, the PTAB issued its Final Written Decision maintaining the validity of claim 14 and invalidating claims 1-4, 8, and 11-13. Finjan filed a Notice of Appeal to the United States Court of Appeals for the Federal Circuit on June 27, 2019, and Cisco filed a Notice of Cross Appeal on July 1, 2019 (Case No. 19-2074). Finjan's Opening Brief was filed on November 22, 2019 and Cisco's Opening Brief on January 16, 2020. Finjan's Reply Brief is due on March 26, 2020 and Cisco's Reply Brief is due on April 16, 2020. No date for oral argument has been set.

**U.S. Patent No. 6,154,844 (Assignee, Finjan, Inc.)**

On October 2, 2018, Juniper Networks, Inc. filed a Petition for IPR of U.S. Patent No. 6,154,844 (IPR2019-00026). Finjan's POPR was filed on January 11, 2019. On April 9, 2019, the PTAB instituted IPR on claims 1, 15, and 41. Finjan's Patent Owner Response was filed on July 2, 2019, Petitioner's Reply was filed on September 24, 2019, and Finjan's Sur-Reply was filed on November 5, 2019. Oral argument was held on January 10, 2020. A Final Written Decision by the PTAB is due by April 9, 2020.

**U.S. Patent No. 8,141,154 (Assignee, Finjan, Inc.)**

On October 3, 2018, Juniper Networks, Inc. filed a Petition for IPR of U.S. Patent No. 8,141,154 (IPR2019-00031). Finjan's POPR was filed on January 11, 2019. On March 25, 2019, the PTAB denied institution of IPR.

**U.S. Patent No. 7,647,633 (Assignee, Finjan, Inc.)**

On October 10, 2018, Juniper Networks, Inc. filed a Petition for IPR of U.S. Patent No. 7,647,633 (IPR2019-00060). Finjan's POPR was filed on February 7, 2019. On April 29, 2019, the PTAB denied institution of IPR. On May 23, 2019, Juniper filed a Request for Rehearing. The PTAB denied the Request for Rehearing on July 16, 2019.

**U.S. Patent No. 7,613,926 (Assignee, Finjan, Inc.)**

On October 11, 2018, Juniper Networks, Inc. filed a Petition for IPR of U.S. Patent No. 7,613,926 (IPR2019-00073). Finjan's POPR was filed on February 7, 2019. On May 1, 2019, the PTAB denied institution of IPR.

**U.S. Patent No. 7,418,731 (Assignee, Finjan, Inc.)**

On July 26, 2019, Juniper Networks, Inc. filed a Petition for IPR of U.S. Patent No. 7,418,731 (IPR2019-01403). Finjan's POPR was filed on November 22, 2019. On December 18, 2019, the PTAB denied institution of IPR. On January 14, 2020, Juniper filed a Request for Rehearing, and on February 27, 2020 the PTAB denied the request.

**U.S. Patent No. 8,079,086 (Assignee, Finjan, Inc.)**

On September 18, 2019, Unified Patents, Inc. filed a Petition for IPR of U.S. Patent No. 8,079,086 (IPR2019-01611). Finjan's POPR was filed on January 23, 2020, and Unified's Reply to POPR was filed on February 11, 2020.

Except for the foregoing disclosures, Finjan is not presently aware of any other material pending legal proceedings, to which Finjan or any of its subsidiaries are a party or of which any of its property is the subject.

Litigation, including patent litigation, is inherently subject to uncertainties. As such, there can be no assurance that Finjan will be successful in litigating and/or settling any of these claims.

**NOTE 9 – LICENSE, SETTLEMENT AND RELEASE AGREEMENTS**

On October 3, 2019, the Company, and its wholly-owned subsidiaries, Finjan, Finjan Mobile, and Finjan Blue and collectively with Finjan and Finjan Mobile, the ("Finjan Subsidiaries") announced that each of the Finjan Subsidiaries entered into a Confidential Patent License Agreement (collectively, the "License Agreements") with Mimecast Limited ("Mimecast"), each effective as of September 30, 2019 ("Effective Date"). In addition, to achieve global patent peace between the companies, the Company and Mimecast and Mimecast North America, Inc. have entered into mutual covenants not to sue for a certain number of years, among other terms (the "Letter Agreement"). As part of the License Agreements, Mimecast and its licensed affiliates (the "Mimecast Parties") obtained a license to, among others, the patents of Finjan, Finjan Mobile, and Finjan Blue, and pay Finjan \$5.9 million in cash within five (5) business days of the Effective Date, which payment was received by Finjan on October 3, 2019, and recognized as revenues as of October 3, 2019, in accordance with the Company's revenue recognition policy as described in Note 2. Further, upon acquisition of Mimecast or acquisitions by Mimecast, additional one time license fees may be due to Finjan. The remaining terms of the License Agreements and the Letter Agreement are confidential.

On May 1, 2019, the Company, and its wholly-owned subsidiary, Finjan, announced that Finjan and Zscaler, Inc. (“Zscaler”) entered into a Confidential Patent License and Settlement Agreement (the “License and Settlement Agreement”) effective as of April 30, 2019 (“Effective Date”). Specifically, the parties have resolved and settled all claims between them. As part of the settlement and pursuant to the License and Settlement Agreement and related agreements, Zscaler and its licensed affiliates (the “Zscaler Parties”) obtained a license to, among others, the patents of Finjan, Finjan Mobile, Inc., and Finjan Blue, Inc. (collectively with the Company, the “Finjan Parties”) and pay Finjan \$7.25 million in cash within five (5) business days of the Effective Date of the License and Settlement Agreement, which payment has been received by Finjan on April 30, 2019, and recognized as revenues as of April 30, 2019, in accordance with the Company’s revenue recognition policy as described in Note 2. Further, upon acquisition of Zscaler or acquisitions by Zscaler, additional one-time license fees may be due to Finjan equal to eight percent (8%) of the gross revenues of certain qualifying products and services for the four (4) concluded quarters immediately preceding the acquisition. The License and Settlement Agreement and related agreements also contained mutual covenants not to sue and mutual releases, among other terms. The remaining terms of the License and Settlement Agreement and related agreements are confidential.

On June 29, 2018, the Company including its wholly-owned subsidiaries, entered into a Confidential Patent License Agreement (the “June 2018 License Agreement”) with Trend Micro Incorporated (K.K.), a Japanese corporation (“Trend Micro Japan”) and Trend Micro, Inc., a California corporation (“Trend Micro U.S. and collectively with Trend Micro Japan, the “Trend Micro Parties”). The June 2018 License Agreement provides that the Trend Micro Parties will obtain a license to, among others, the Finjan patents and pay the Finjan parties \$13.4 million in cash which Finjan received June 29, 2018. The Company recognized \$13.4 million as revenues in 2018. Further, upon acquisition by the Trend Micro Parties of certain entities, the Trend Micro Parties will pay additional license fees to Finjan, unless otherwise mutually agreed to by the Company and the Trend Micro Parties. Further, the June 18 License Agreement has additional provisions relating to certain unlicensed products of any company that acquires a Trend Micro Party, in which case additional license fees may apply. The parties also entered into related agreements with respect to their respective patents, including the transfer of 18 select issued security-related patent assets from the Trend Micro Parties to the Finjan Parties. In accordance with ASC-845-10-30, the Company determined that the acquired assets are non-monetary with no defined future benefit, resulting in the conclusion that they are not assets. The remaining terms of the June 2018 License Agreement are confidential.

On April 6, 2018, the Company and its wholly-owned subsidiary Finjan, entered into a Confidential Patent License and Settlement Agreement (the “Finjan 2018 License”) with Carbon Black, Inc., a Delaware corporation (“Carbon Black”), whereby the companies resolved all pending litigation matters. In addition, Finjan Mobile, a wholly-owned subsidiary of the Company and Carbon Black entered into a separate Confidential Patent Cross License Agreement (the “Cross License”), which serves to ensure the parties’ freedom to operate under the other’s patent portfolio. The terms of each agreement are confidential. Under the terms of the Finjan 2018 License, Carbon Black agreed to pay Finjan \$3.9 million in license fees, as follows: (i) \$1.3 million within five (5) business days of the Effective Date of the Finjan 2018 License, which was received on April 9, 2018, (ii) \$1.3 million on or before September 30, 2018, which was received on September 26, 2018, and (iii) \$1.3 million on or before December 31, 2018, which was received on December 28, 2018. The Company recognized \$3.9 million as revenues in 2018. Further, upon acquisition of Carbon Black or acquisitions by Carbon Black, additional one-time license fees will be due to Finjan equal to eight percent (8%) of the gross revenues of certain qualifying products and services for the four (4) concluded quarters immediately preceding the acquisition.

On February 28, 2018, Finjan Holdings, Inc. and its subsidiaries, including its wholly-owned subsidiary, Finjan (collectively, the “Finjan Parties”), entered into a Confidential Patent License and Settlement Agreement (the “Symantec License and Settlement Agreement”) with Symantec and its subsidiary, Blue Coat Systems, LLC (collectively, the “Symantec Parties”). Pursuant to the Symantec License and Settlement Agreement, the parties resolved and settled all claims between them. As part of the settlement, the Symantec Parties obtained a license to, among others, the Finjan patents and agreed to pay the Finjan Parties \$65.0 million in cash within twenty (20) days of the Effective Date of the Symantec License and Settlement Agreement, which Finjan received on March 19, 2018. The Company recognized \$65.0 million as revenues in 2018. Further, if Symantec acquires certain entities within four years from the Effective Date, the Symantec Parties will pay additional license fees of up to \$45.0 million to the Finjan Parties, unless otherwise mutually agreed to by the Company and Symantec. The remaining terms of the Symantec License and Settlement Agreement are confidential.

On December 29, 2017, Finjan entered into a Confidential Patent License and Settlement Agreement (the “Finjan License”) with FireEye, Inc. whereby the companies resolved all pending litigation matters and together with a contemporaneous license agreement from FireEye to Finjan and its affiliates (the “FireEye License” and collectively with the Finjan License, the “Agreements”), the parties granted each other cross-licenses going forward. Under the terms of the Finjan License, FireEye agreed to pay Finjan \$17.5 million in license fees, as follows: (a) \$12.5 million on the Effective Date of the Finjan License, which amount was paid on December 29, 2017 and recognized as revenues as of December 31, 2017 and (b) \$5.0 million which

was offset by \$5 million in license fees from Finjan to FireEye under the FireEye License, granting a perpetual license for the use of FireEye's patents. The FireEye License was determined not to be an intangible asset since it had no defined future benefit. Therefore, the FireEye License was expensed under SG&A.

On April 21, 2017, the Company entered into a Confidential Patent License Agreement (the "EU Agreement") with a European corporation ("EU Licensee"). Pursuant to the EU Agreement, EU Licensee obtained a license to our patent portfolio and agreed to pay Finjan \$4.9 million cash, in license fees, paid as follows, (i) \$2.3 million to be paid within 10 days after the effective date of the April 2017 Agreement, (ii) \$1.3 million on or before January 31, 2018, and (iii) \$1.3 million on or before January 31, 2019. The Company recognized \$2.3 million of the \$4.9 million license as revenues in 2017. The second installment of \$1.3 million was received on February 1, 2018 and recognized as revenues as of December 31, 2017. The third installment of \$1.3 million was received January 28, 2019 and recognized as revenues on January 1, 2018 upon adoption of ASU 2014-09 (Topic 606). Such license does not grant EU Licensee any right to transfer, sublicense or grant any rights under the EU Agreement to a third party except as specifically provided under the EU Agreement. Such license also has certain provisions relating to certain unlicensed products of any company that acquires EU Licensee, or is acquired by EU Licensee or its affiliates, in which case additional license fees may apply. The specific terms of the EU Agreement are confidential.

On March 30, 2017, Finjan entered into a Confidential Master Agreement (the "Master Agreement") with Sophos Group plc, a public limited company organized and existing under the laws of England and Wales, Sophos Limited, a corporation organized and existing under the laws of England and Wales ("Sophos Limited"), and Sophos Inc. ("Sophos Inc."), a Massachusetts corporation (collectively, "Sophos"). Pursuant to the Master Agreement, Finjan and Sophos Inc. agreed to dismiss the suit Finjan, Inc. v. Sophos, Inc. before the United States District Court of the Northern District of California (case no. 3:14cv1197-WHO) with prejudice. The Master Agreement also provides for full releases by the parties and covenants not to sue. Under the terms of the Sophos Agreement, on March 30, 2017, Sophos obtained a fully paid up license to the Finjan patent portfolio and agreed to pay a license fee of \$15.0 million in cash, which Finjan received on March 31, 2017. The Company recognized \$15.0 million as revenues in 2017. Finally, in connection with the Sophos Agreement, on March 30, 2017, Finjan Mobile entered into a Confidential Patent Cross License Agreement (the "Finjan Mobile Cross License Agreement") with Sophos Limited. Pursuant to the terms of the Finjan Mobile Cross License Agreement, the parties granted patent cross licenses in the Field of Use and Sophos Limited agreed to pay Finjan Mobile \$2.5 million cash, \$1.25 million on or before March 31, 2018, which was recognized as revenues as of December 31, 2017 and \$1.25 million due on or before March 31, 2019, which was recognized as revenues on January 1, 2018 upon adoption of ASU 2014-09 (Topic 606).

On March 24, 2017, Finjan entered into a Patent License, Settlement and Release Agreement (the "Avast Agreement") with Avast Software s.r.o., a company organized under the laws of the Czech Republic ("Avast"), which provided that upon Avast's satisfaction of certain terms, Finjan would dismiss its breach of contract and patent infringement claims, filed in the U.S. District Court for the Northern District of California (Case No. 3:17-cv-00283-BLF), against Avast and its newly acquired subsidiary, AVG Technologies, with prejudice. Under the terms of the Avast Agreement, Avast agreed to pay Finjan \$ 7.745 million in cash on or before March 24, 2017. Payment was received on March 24, 2017 and was recorded as revenue in the first quarter of 2017. As provided in the Avast Agreement, specific terms of the agreement are confidential.

On March 2, 2017, Finjan entered into a Confidential Patent License Agreement (the "Veracode Agreement") with Veracode, Inc., a Delaware corporation ("Veracode"). Pursuant to the Veracode Agreement, Veracode obtained a license to the Finjan patent portfolio and agreed to pay a license fee of \$ 2.0 million in cash, which Finjan received on March 2, 2017 and was recorded as revenue in the first quarter of 2017. Such license does not grant Veracode any right to transfer, sublicense or grant any rights under the Veracode Agreement to a third party except as specifically provided under the Veracode Agreement. Such license also has certain provisions relating to certain unlicensed products of any company that acquires Veracode, or is acquired by Veracode or its affiliates, in which case additional license fees may apply. The specific terms of the Veracode Agreement are confidential.

## **NOTE 10 – STOCKHOLDERS' EQUITY**

### ***AUTHORIZED CAPITALIZATION***

The Company's capital structure is comprised of preferred stock and common stock. The Company's authorized capitalization consists of (i) 80,000,000 shares of common stock, par value \$0.0001 per share, and (ii) 10,000,000 shares of Preferred Stock, \$0.0001 par value per share.

The Company's certificate of incorporation authorizes the Board of Directors to establish one or more classes or series of preferred stock. Unless required by law or by any stock exchange on which our common stock is listed in the future, the authorized shares of preferred stock will be available for issuance at the discretion of our Board of Directors without further action by our stockholders. The Board of Directors is able to determine, with respect to any class or series of preferred stock, the terms and rights of that series.

#### ***STOCK REPURCHASE PROGRAM***

On May 2, 2018, the Company's board of directors authorized the repurchase of issued and outstanding shares of the Company's common stock having an aggregate value of up to \$10.0 million pursuant to a share repurchase program. The authorization did not specify an expiration date. The repurchases under the share repurchase program were made in the open market or in privately negotiated transactions and were funded from the Company's working capital. All shares of common stock repurchased under the Company's share repurchase program were retired and restored to authorized but unissued shares of common stock at December 31, 2018. During 2018, the Company repurchased 686,492 shares of its common stock under the share repurchase program, for an aggregate purchase price of approximately \$3.0 million, or a weighted average cost of \$2.93 per share. In accordance with ASC 505-30-30-8, we charged the excess over the par value entirely to retained earnings in recognition of the fact that a corporation can capitalize or allocate retained earnings for such purposes. As of December 31, 2019, the Company had a remaining authorization of \$8.0 million for future share repurchases.

#### ***PREFERRED STOCK***

During 2018 and 2017, the Company retired all shares of the Series A and A-1 Preferred stock. The Company accretes changes in redemption value over the period from the date of issuance to the earliest redemption dates of the security. The Company recorded a deemed dividend of \$0.9 million and \$4.6 million during 2018 and 2017, respectively, representing an increase to the Preferred Stock's redemption (liquidation) value.

#### ***WARRANTS***

On issuance of the Series A-1 Preferred stock, the Company agreed to issue to Soryn HLDR Vehicle II LLC, a Delaware limited liability company, a fully vested common stock warrant (the "Warrant"), to initially purchase 2.0 million shares of common stock, \$0.0001 par value per share of the Company at an exercise price of \$3.18 per share, which increased to 2.4 million shares in accordance with its terms. The Warrant has a term of three years. Upon the closing of the sale and issuance of the Series A-1 Preferred Stock on June 19, 2017, the Warrant was issuable for 2.0 million shares, increased by an additional 0.3 million shares on June 30, 2017 and an additional 0.05 million shares on July 21, 2017.

The holder of the Warrant has the right to acquire a variable amount of common stock at a fixed price for the first 15 months. Under ASC 815-40-15-8A, the Warrant is not considered indexed to the Company's stock, and thus it had a derivative feature and was classified as a liability for the first 15 months. The Company valued the Warrant at inception using a Monte Carlo valuation model, recording a \$3.3 million warrant liability at inception, which was then marked-to-market at each reporting period with the change in fair value recorded in the consolidated statements of operations. The change in fair value of the warrant liability during 2018 was a loss of \$3.4 million and recorded in the consolidated statements of operations. On September 19, 2018, upon expiration of the 15 month period, the Warrant was marked-to-market and its value increased to \$4.5 million and reclassified such amounts to equity.

As of December 31, 2019 the aggregate intrinsic value of the warrant was \$0, with a weighted average contracted term of 0.5 years.

#### ***COMMON STOCK***

Holders of the Company's common stock are entitled to one vote on each matter submitted to a vote at a meeting of stockholders. The Company's common stock does not have cumulative voting rights, which means that the holders of a majority of voting shares voting for the election of directors can elect all of the members of the Board of Directors. The Company's common stock has no preemptive rights and no redemption or conversion privileges. The holders of the outstanding shares of the Company's common stock are entitled to receive dividends out of assets legally available at such times and in such amounts as the Board of Directors may, from time to time, determine, and upon liquidation and dissolution are entitled to receive all assets available for distribution to the stockholders. A majority vote of shares represented at a meeting at which a quorum is present is sufficient for all actions that require the vote of stockholders.

During 2017, the Company completed an underwriting agreement with B. Riley & Co., LLC pursuant to which the Company agreed to issue and sell an aggregate of 4.1 million shares of its common stock, par value \$0.0001 per share at a public offering price of \$3.15 per share gross proceeds, with net proceeds to the Company of \$2.90 per share, for a total of \$12.0 million.

**NOTE 11 – STOCK-BASED COMPENSATION**

On July 10, 2014, the Company’s stockholders approved the Finjan Holdings, Inc. 2014 Incentive Compensation Plan (the "2014 Plan"), upon shareholder approval of the 2014 Plan, the Finjan Holdings, Inc. 2013 Global Share Option Plan and Israeli Sub-Plan (the "2013 Option Plan") were terminated, other than respect to the 1,489,532 shares of common stock underlying options outstanding under such plan.

The Company shareholders approved the 2014 Plan at the annual meeting of stockholders held July 10, 2014, pursuant to which 2,196,836 shares of common stock are authorized for issuance. On June 21, 2017, at the annual meeting of stockholders, the Company’s shareholders approved an increase of 1,000,000 shares to the Finjan Holdings, Inc. 2014 Plan and added an “evergreen” feature which provides for the annual replenishment of shares to the 2014 Plan share reserve without stockholder approval (equal to 5.0% of our outstanding shares of Common Stock as of the end of our immediately preceding fiscal year). As of December 31, 2019, the Company has 2,820,870 shares available for issuance under the 2014 Plan.

Total stock-based compensation for stock options and restricted stock awards, of \$1.0 million, \$1.6 million, and \$0.8 million was recorded in selling, general and administrative expenses in the accompanying consolidated statements of operations for the years ended December 31, 2019, 2018 and 2017, respectively. The stock-based compensation expense is for options and restricted stock awards granted to certain employees and members of the Board of Directors.

**STOCK OPTIONS**

The following is a summary of stock option activity during the years ended December 31, 2019 and 2018:

	Number of Options Outstanding	Weighted Average Exercise Price	Average Remaining Contractual Life (in years)	Aggregate Intrinsic Value (thousands)
Outstanding – December 31, 2017	2,341,340	\$ 1.77	5.78	\$ 1,087
Options granted	376,667	2.41		
Options exercised	224,400	1.59		
Options forfeited	6,961	1.42		
Outstanding – December 31, 2018	2,486,646	\$ 1.89	7.01	\$ 1,550
Options granted	50,832	3.02		
Options exercised	—			
Options forfeited	181,281	2.23		
Outstanding – December 31, 2019	2,356,197	\$ 1.89	5.93	\$ 628
Exercisable – December 31, 2019	1,843,468	\$ 1.75	5.34	\$ 624

The Company estimates the fair values of stock options using the Black-Scholes option-pricing model on the date of grant. For the years ended December 31, 2019 and 2018, the assumptions used in the Black-Scholes option pricing model, which was used to estimate the grant date fair value per option, were as follows:

	2019	2018
	Employee Grants	Employee Grants
Weighted-average Black-Scholes option pricing model assumptions:		
Volatility	73.01 %	82.00 %
Expected term (in years)	6	6
Risk-free rate	2.22 %	2.24 %
Expected dividend yield	0.0 %	0.0 %
Weighted average grant date fair value per share	\$ 2.10	\$ 2.22

The risk-free interest rate is the United States Treasury rate for the day of the grant having a term equal to the life of the equity instrument. The volatility is a measure of the amount by which the Company's share price has fluctuated or is expected to fluctuate; the Company used its common stock volatility along with the average of historic volatilities of comparative companies. The dividend yield is zero as the Company has not made any dividend payment and has no plans to pay dividends in the foreseeable future. The Company determines the expected term of its stock option awards by using the simplified method, which assumes each vesting tranche of the award has a term equal to average of the contractual term and the vesting period.

As of December 31, 2019, total compensation cost not yet recognized related to unvested stock options was approximately \$0.8 million, which is expected to be recognized over a weighted-average period of 2.3 years.

#### **RESTRICTED STOCK UNITS**

The following is a summary of RSUs award activity for the years ended December 31, 2019 and 2018:

	2019		2018	
	Number of Shares	Weighted Average Grant Date Fair Value	Number of Shares	Weighted Average Grant Date Fair Value
Non-vested at beginning of year	315,292	\$ 2.26	438,712	\$ 2.28
Shares granted	253,113	2.17	200,000	3.16
Shares vested	82,270	2.28	323,420	2.84
Non-vested at end of year	486,135	\$ 2.53	315,292	\$ 2.26

The Company estimates the fair value of the granted shares using the market price of the Company's stock price at the grant date. For the years ended December 31, 2019, 2018 and 2017, the Company recognized \$0.3 million, \$0.9 million and \$0.6 million, respectively of stock-based compensation expense related to the RSUs.

As of December 31, 2019, total compensation cost not yet recognized related to unvested RSUs was approximately \$0.8 million, which is expected to be recognized over a weighted-average period of 2.3 years.

#### **NOTE 12 – RELATED PARTY TRANSACTIONS**

In the course of business, the Company obtains legal services from firms in which a member of the Company's board is a member. The Company incurred approximately \$0.2 million, \$0.3 million and \$0.2 million in legal fees to these firms during the years ended December 31, 2019, 2018 and 2017 respectively. As of December 31, 2019 and 2018 the Company had balances due to these firms amounting to approximately \$0.1 million and \$0.2 million, respectively.

The Company entered into a sublease agreement at its headquarters, effective July 1, 2018 with Benhamou Global Ventures, a company in which one of the Company's Directors serves as Chairman and CEO. Rental income from the sublease is approximately \$15,000 quarterly for an undefined term.

The Company entered into a second sublease agreement at its headquarters, effective July 1, 2018 with a portfolio company in which one of the Company's Directors is an investor. Rental income from the sublease was approximately \$45,000 quarterly. This sublease agreement was terminated in December, 2019.

**NOTE 13 – INCOME TAX**

The domestic and foreign components of loss before income taxes from operations for the years ended December 31, 2019, 2018 and 2017 are as follows:

	<b>For the Years Ended December 31,</b>		
	<b>2019</b>	<b>2018</b>	<b>2017</b>
	<b>(in thousands)</b>		
Domestic	\$ (22,708)	\$ 29,110	\$ 17,120
Foreign	—	(320)	(469)
	<u>\$ (22,708)</u>	<u>\$ 28,790</u>	<u>\$ 16,651</u>

The provision (benefit) for income tax for the years ended December 31, 2019, 2018 and 2017, consist of the following:

	<b>For the Years Ended December 31,</b>		
	<b>2019</b>	<b>2018</b>	<b>2017</b>
	<b>(in thousands)</b>		
Federal:			
Current	\$ (641)	\$ 4,010	\$ —
Deferred	(4,630)	2,231	7,694
State:			
Current	(1,121)	1,329	43
Deferred	(209)	482	269
Foreign:			
Current		—	—
Deferred	—	73	(129)
	<u>(6,601)</u>	<u>8,125</u>	<u>7,877</u>
Change in valuation allowance	383	(73)	(14,037)
Income tax provision (benefit)	<u>\$ (6,218)</u>	<u>\$ 8,052</u>	<u>\$ (6,160)</u>

The expected tax expense (benefit) based on the statutory rate is reconciled with actual tax expense (benefit) as follows:

	<b>For the Years Ended December 31,</b>		
	<b>2019</b>	<b>2018</b>	<b>2017</b>
U.S. Federal statutory rate	21.0 %	21.0 %	34.0 %
State rate, net of federal benefit	3.2 %	5.0 %	2.8 %
<b>Permanent differences:</b>			
Change in tax rate	— %	— %	16.4 %
Impact of tax reform	— %	— %	(16.4)%
Foreign derived intangible income benefit	3.7 %	(0.4)%	— %
Deferred tax adjustment	(0.5)%	0.5 %	(0.3)%
Stock based compensation	— %	(0.4)%	0.1 %
§162(m) limited compensation	— %	1.1 %	— %
Foreign tax rate difference	— %	— %	0.3 %
Fair value measurement of warrants	— %	2.5 %	(4.5)%
Other	— %	(1.6)%	(1.6)%
Change in valuation allowance	(0.1)%	0.3 %	(67.9)%
Income tax provision (benefit)	27.3 %	28 %	(37.1)%

The approximate tax effects of temporary differences, which give rise to significant deferred tax assets and liabilities, areas follows:

	<b>As of December 31,</b>		
	<b>2019</b>	<b>2018</b>	<b>2017</b>
	<b>(in thousands)</b>		
<b>Deferred tax assets</b>			
Net operating losses	\$ 5,346	\$ 535	\$ 3,912
Stock-based compensation	772	736	572
Intangible assets	1,983	2,412	2,190
Other	359	340	115
Total deferred tax assets	8,460	4,023	6,789
<b>Valuation allowance</b>			
Deferred tax asset, net of valuation allowance	7,542	3,488	6,327
Deferred tax liability	(275)	(677)	(126)
Net deferred tax assets	\$ 7,267	\$ 2,811	\$ 6,201

As of December 31, 2019, the Company had \$20.7 million and \$6.7 million of federal and state net operating losses ("NOL") carryforwards, respectively. As of December 31, 2019, the Company had foreign NOL carryforwards of approximately \$2.3 million.

The use of NOL and tax credit carryforwards may be subject to a substantial annual limitation due to the ownership change limitations provided by Section 382 and 383 of the U.S. Internal Revenue Code ("IRC"), and similar state provisions. The annual limitation may result in the expiration of NOL and tax credit carryforwards before they are used.

In assessing the realization of deferred tax assets, management considers whether it is more likely than not that some portion or all of the deferred tax assets will be realized. The ultimate realization of deferred tax assets is dependent upon the generation of future taxable income during the periods in which those temporary differences become deductible.

Management considers the scheduled reversal of deferred tax liabilities, carryback potential, projected future taxable income and tax planning strategies in making this assessment. Management has considered both positive and negative evidence in evaluating the need for a valuation allowance and has given more weight to the objective evidence. At the end of 2019, management's assessment is that no valuation allowance against its federal deferred tax assets is deemed necessary, and a

partial valuation a portion of the state net operating losses is necessary. The Company's foreign subsidiary had generated book and tax losses since its inception. Management has determined that it is more likely than not that the foreign deferred tax assets will not be realized. As such, the Company has maintained the valuation allowance against its foreign deferred tax assets. The change in valuation allowance for the years ended December 31, 2019, 2018 and 2017, is \$0.4 million, (\$0.1) million and (\$14.0) million, respectively.

On December 22, 2017, the 2017 Tax Cut and Jobs Act (the "Act") was enacted into law and the new legislation contains several key tax provisions, including a one-time mandatory transition tax on accumulated foreign earnings and a reduction of the corporate income tax rate to 21% effective January 1, 2018, among others. We are required to recognize the effect of the tax law changes in the period of enactment, such as determining the estimated transition tax, re-measuring our U.S. deferred tax assets and liabilities at a 21% rate as well as reassessing the net realizability of our deferred tax assets and liabilities. The provisional amount related to the re-measurement of our deferred tax balance was estimated to be a reduction of approximately \$2.8 million at December 31, 2017.

In December 2017, the SEC staff issued Staff Accounting Bulletin No. 118, Income Tax Accounting Implications of the Tax Cuts and Jobs Act (SAB 118) which allows companies to record provisional amounts during a measurement period not to extend beyond one year of the enactment date. Since the Act was passed late in the fourth quarter of 2017, and ongoing guidance and accounting interpretation was yet to be issued, our accounting of the transition tax and deferred tax remeasurements were incomplete as of December 31, 2017. The 2017 Federal corporate income tax return was filed in Q4 2018.

The final analysis and impact of the Act is reflected in the tax provision and related tax disclosures for the year ended December 31, 2018. There were no material differences to the originally estimated \$2.8 million remeasurement of deferred tax assets or transition tax liability.

#### **NOTE 14 - SUBSEQUENT EVENTS**

Management of the Company evaluates events or transactions that have occurred after the balance sheet date through the date the financial statements are issued.

On January 24, 2020, the Company announced that each of the Finjan Subsidiaries have entered into a Confidential Patent License and Settlement Agreement (collectively, the "License Agreements") with Bitdefender Inc., a Florida Corporation and Bitdefender S.R.L., a Romanian corporation (collectively, "Bitdefender"), each effective as of January 23, 2020 ("Effective Date"). As part of the License Agreements, Bitdefender will obtain a license to, among others, the patents of Finjan, Finjan Mobile, and Finjan Blue, and pay Finjan \$3.8 million in cash. Further, upon acquisition of Bitdefender or acquisitions by Bitdefender, additional one-time license fees may be due to Finjan. The remaining terms of the License Agreements are confidential.

**FINJAN HOLDINGS, INC. SUBSIDIARIES**

The following are the subsidiaries of Finjan Holdings, Inc.:

Finjan, Inc., a Delaware corporation

Finjan Mobile, Inc., a Delaware corporation

CybeRisk Security Solutions, Inc., a Delaware corporation

Finjan Blue, Inc., a Delaware corporation

## Exhibit 23.1

### Independent Registered Public Accounting Firm's Consent

We consent to the incorporation by reference in the Registration Statement of Finjan Holdings, Inc. on Form S-3 (File No. 333-197378), Form S-3 (File No. 333-189984), Form S-8 (File No. 333-195922), Form S-8 (File No. 333-197369), Form S-8 (File No. 333-223665), and Form S-8 (File No. 333-230240) of our report dated March 4, 2020, with respect to our audits of the consolidated financial statements of Finjan Holdings Inc. as of December 31, 2019 and 2018 and for each of the three years in the period ended December 31, 2019 ("consolidated financial statements"), which report is included in this Annual Report on Form 10-K of Finjan Holdings, Inc. for the year ended December 31, 2019.

Our report on the consolidated financial statements refers to a change in the method of accounting for leases effective January 1, 2019 due to the adoption of the guidance in ASC Topic 842, Leases.

/s/ Marcum LLP

Marcum LLP

Melville, NY  
March 4, 2020

## CERTIFICATION

I, Philip Hartstein, certify that:

1. I have reviewed this Annual Report on Form 10-K of Finjan Holdings, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: March 4, 2020

By:

/s/ Philip Hartstein

**Philip Hartstein**  
**President and Chief Executive Officer**





