

May 3, 2010 9:43 AM

David H. Yamasaki
Chief Executive Officer/Clerk
Superior Court of CA, County of Santa Clara
Case #1-09-CV-149262 Filing #G-22170
By R. Walker, Deputy

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**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA CLARA**

TREND MICRO INCORPORATED, a California corporation,

Plaintiff,

vs.

FORTINET, INC., a Delaware corporation

Defendant.

Case No. 1-09-CV-149262

ORDER RE: DEMURRER TO ANSWER

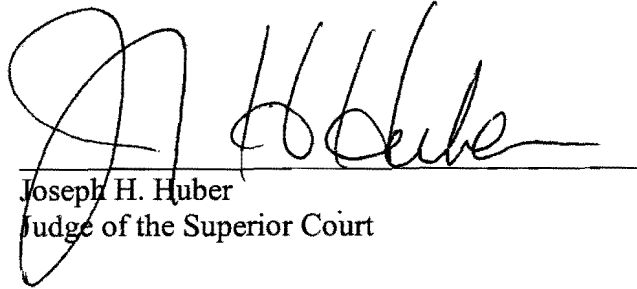
The Demurrer to the Third Affirmative Defense stated in Defendant Fortinet's Answer by Plaintiff Trend Micro Incorporated ("Plaintiff") came on for hearing before the Honorable Joseph H. Huber on April 30, 2010, at 9:00 a.m. in Department 8. The matter having been submitted, the Court finds and orders as follows:

1) Both Plaintiff's and Defendant's requests for judicial notice of various pleadings filed in federal court litigation between these parties and various federal court orders are GRANTED pursuant to Evid. Code §452(d). Only the federal court orders are noticed as to the truth of their contents, the pleadings are noticed only as to their existence and dates of filing. Plaintiff's further request for judicial notice of a document filed by Fortinet with the U.S. International

1 Trade Commission is GRANTED pursuant to Evid. Code §452(d) only as to its existence and
2 filing and not as to the truth of its contents.

3 2) Plaintiff's demurrer to the third affirmative defense in Fortinet's Answer to the Second
4 Amended Complaint in this action is OVERRULED in its entirety.
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8 Dated: 4-30-10

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Joseph H. Huber
Judge of the Superior Court

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