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ENDORSED

2014 JUL 17 P 2: 20

David H. Yamasaki, Clerk of the Superior Court  
County of Santa Clara, California

Deputy Clerk  
2014

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9  
10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 COUNTY OF SANTA CLARA

12 STEVEN PLATT, Individually and on Behalf )  
of All Others Similarly Situated, )

13 Plaintiff, )

14 vs. )

16 FIREEYE, INC., DAVID G. DEWALT, )  
MICHAEL J. SHERIDAN, ASHAR AZIZ, )  
17 ENRIQUE SALEM, GAURAV GARG, )  
PROMOD HAQUE, RONALD E. F. CODD, )  
18 WILLIAM M. COUGHRAN JR., ROBERT )  
F. LENTZ, MORGAN STANLEY & CO. )  
19 LLC, BARCLAYS CAPITAL INC., J.P. )  
MORGAN SECURITIES LLC, GOLDMAN )  
20 SACHS & CO., UBS SECURITIES LLC, )  
DEUTSCHE BANK SECURITIES INC., )  
21 CITIGROUP GLOBAL MARKETS INC., )  
PACIFIC CREST SECURITIES, LLC, )  
22 NOMURA SECURITIES INTERNATIONAL, )  
INC., and DOES 1 through 25, inclusive, )

23 Defendants. )  
24

Case No. **114CV268110**

CLASS ACTION

COMPLAINT FOR VIOLATION OF §§11,  
12(a)(2) AND 15 OF THE SECURITIES ACT  
OF 1933

DEMAND FOR JURY TRIAL

1 **I. INTRODUCTION**

2 1. Plaintiff makes the following allegations, except as to allegations specifically pertaining  
3 to plaintiff, based upon the investigation undertaken by plaintiff’s counsel, including an analysis of the  
4 Company’s filings with the Securities and Exchange Commission, publicly available news articles and  
5 reports, analysts’ reports about FireEye, Inc. (“FireEye” or the “Company”), press releases and other  
6 public statements issued by the Company, and media reports about the Company. Plaintiff believes that  
7 substantial additional evidentiary support will exist for the allegations set forth herein after a reasonable  
8 opportunity for discovery.

9 2. This is a securities class action on behalf of all persons who purchased or otherwise  
10 acquired the common stock of FireEye, Inc. pursuant or traceable to the Company’s false and  
11 misleading Registration Statement and Prospectus issued in connection with its March 7, 2014  
12 Secondary Offering, seeking to pursue remedies under the Securities Act of 1933 (“1933 Act”). This  
13 complaint asserts claims exclusively under the 1933 Act for strict liability and negligence.

14 3. FireEye’s Secondary Offering was priced at \$82 after the close of trading on March 6,  
15 2014, and the shares began trading on March 7, 2014. Shortly after the Secondary Offering, the stock  
16 price began to decline precipitously and has never recovered. As of the filing of this complaint, the  
17 stock was trading at approximately \$33 per share.

18 **II. JURISDICTION AND VENUE**

19 4. The claims alleged herein arise under §§11, 12(a)(2) and 15 of the 1933 Act, 15 U.S.C.  
20 §§77k, 77l(a)(2) and 77o. Jurisdiction is conferred by §22 of the 1933 Act and venue is proper pursuant  
21 to §22 of the 1933 Act. Section 22 of the 1933 Act explicitly states that “[e]xcept as provided in section  
22 16(c), no case arising under this subchapter and brought *in any State* court of competent jurisdiction  
23 shall be removed to any court in the United States.” Section 16(c) refers to “covered class actions,”  
24 which are defined as lawsuits brought as class actions or brought on behalf of more than 50 persons  
25 asserting claims *under state or common law*. This is an action asserting federal law claims. Thus, it  
26 does not fall within the definition of a “covered class action” under §16(b)-(c) and therefore is not  
27 removable to federal court under the Securities Litigation Uniform Standards Act of 1998.

28 5. The violations of law complained of herein occurred in this County, including the  
dissemination of materially false and misleading statements complained of herein into this County.  
FireEye in located and conducts business in this County.

1 **III. PARTIES**

2 6. Plaintiff Steven Platt (“Plaintiff”) acquired the common stock of FireEye pursuant or  
3 traceable to the Secondary Offering, as indicated below, and has been damaged thereby.

4 Date	Shares Purchased	Price Per Share
5 03/07/2014	60	\$81.82

6 7. Defendant FireEye, Inc. is a Delaware corporation headquartered in Milpitas,  
7 California, and its shares are traded on the NASDAQ Stock Exchange under the ticker symbol  
8 “FEYE.”

9 8. Defendant David G. DeWalt (“DeWalt”) was, at the time of the Offering, FireEye’s  
10 Chief Executive Officer (“CEO”) and Chairman of FireEye’s Board of Directors. Defendant  
11 DeWalt signed the false and misleading Registration Statement.

12 9. Defendant Michael J. Sheridan (“Sheridan”) is FireEye’s Chief Financial Officer  
13 (“CFO”) and a member of the Company’s Board of Directors. Sheridan signed the Registration  
14 Statement.

15 10. Defendant Ashar Aziz (“Aziz”) is, and was at the time of the Offering, FireEye’s Chief  
16 Technology Officer (“CTO”), Chief Strategy Officer (“CSO”), and Vice Chairman of FireEye’s Board  
17 of Directors. Defendant Aziz founded FireEye in 2004 and served as Chief Executive Officer until  
18 November 2012. Defendant Aziz signed the false and misleading Registration Statement.

19 11. Defendant Enrique Salem (“Salem”) was, at the time of the Offering, a member of  
20 FireEye’s Board of Directors. Defendant Salem signed the false and misleading Registration Statement.

21 12. Defendant Gaurav Garg (“Garg”) was, at the time of the Offering, a member of  
22 FireEye’s Board of Directors. Defendant Garg signed the false and misleading Registration Statement.

23 13. Defendant Promod Haque (“Haque”) was, at the time of the Offering, a member of  
24 FireEye’s Board of Directors. Defendant Haque signed the false and misleading Registration Statement.

25 14. Defendant Ronald E. F. Codd (“Codd”) was, at the time of the Offering, a member of  
26 FireEye’s Board of Directors. Defendant Codd signed the false and misleading Registration Statement.

27 15. Defendant William M. Coughran Jr. (“Coughran”) was, at the time of the Offering, a  
28 member of FireEye’s Board of Directors. Defendant Coughran signed the false and misleading  
Registration Statement.

1           16. Defendant Robert F. Lentz (“Lentz”) was, at the time of the Offering, a member of  
2 FireEye’s Board of Directors. Defendant Lentz signed the false and misleading Registration Statement.

3           17. Defendants DeWalt, Sheridan, Aziz, Salem, Garg, Haque, Codd, Coughran, and Lentz  
4 are collectively referred to herein as the “Individual Defendants.”

5           18. Defendant Morgan Stanley & Co. LLC (“Morgan Stanley”) was an underwriter of the  
6 Company’s Secondary Offering, served as a financial advisor, and assisted in the preparation and  
7 dissemination of FireEye’s false and misleading Registration Statement. Morgan Stanley acted as lead  
8 joint book-runner in the Offering.

9           19. Defendant Barclays Capital Inc. (“Barclays”) was an underwriter of the Company’s  
10 Secondary Offering, served as a financial advisor, and assisted in the preparation and dissemination of  
11 FireEye’s false and misleading Registration Statement. Barclays acted as lead joint book-runner in  
12 the Offering.

13           20. Defendant J.P. Morgan Securities LLC (“JP Morgan”) is the U.S. investment banking  
14 arm of financial services giant JPMorgan Chase & Co. JP Morgan provides debt and equity  
15 underwriting, M&A and corporate restructuring advising, securities dealing and brokerage, and trade  
16 execution services for large-market companies and institutional investors. JP Morgan acted as an  
17 underwriter for the Secondary Offering, helping to draft and disseminate the offering documents.

18           21. Defendant Goldman, Sachs & Co. (“Goldman Sachs”) was an underwriter of  
19 the Company’s Secondary Offering, served as a financial advisor, and assisted in the preparation  
20 and dissemination of FireEye’s false and misleading Registration Statement. Goldman Sachs acted  
21 as lead joint book-runner in the Offering.

22           22. Defendant UBS Securities LLC (“UBS”) was an underwriter of the Company’s  
23 Secondary Offering, served as a financial advisor, and assisted in the preparation and dissemination of  
24 FireEye’s false and misleading Registration Statement. UBS acted as book-running manager for the  
25 Offering.

26           23. Defendant Deutsche Bank Securities Inc. (“Deutsche Bank”) is the U.S. investment  
27 banking and securities arm of Deutsche Bank AG. Deutsche Bank provides investment banking  
28 products and services. Deutsche Bank acted as an underwriter for the Secondary Offering, helping to  
draft and disseminate the offering documents.

1           24. Defendant Citigroup Global Markets Inc. (“Citigroup”) was an underwriter of the  
2 Company’s Secondary Offering, served as a financial advisor, and assisted in the preparation and  
3 dissemination of FireEye’s false and misleading Registration Statement. Citigroup acted as book-  
4 running manager for the Offering.

5           25. Defendant Pacific Crest Securities LLC (“Pacific Crest”) was an underwriter of the  
6 Company’s Secondary Offering, served as a financial advisor, and assisted in the preparation and  
7 dissemination of FireEye’s false and misleading Registration Statement. Pacific Crest acted as co-  
8 manager for the Offering.

9           26. Defendant Nomura Securities International, Inc. (“Nomura”) was an underwriter of the  
10 Company’s Offering, served as a financial advisor, and assisted in the preparation and dissemination of  
11 FireEye’s false and misleading Registration Statement. Nomura acted as co-manager for the Offering.

12           27. The defendants named in ¶¶18-26 are referred to herein as the “Underwriter  
13 Defendants.”

14           28. Defendant FireEye and the defendants who signed the Registration Statement *are strictly*  
15 *liable* for the false and misleading statements incorporated into the Registration Statement. The  
16 Underwriter Defendants drafted and disseminated the offering documents and were paid millions of  
17 dollars in connection therewith. The Underwriter Defendants’ failure to conduct adequate due diligence  
18 investigations was a substantial factor leading to the harm complained of herein.

19           29. The true names and capacities of defendants sued herein under California Code of Civil  
20 Procedure §474 as Does 1 through 25, inclusive, are presently not known to plaintiff, who therefore  
21 sues these defendants by such fictitious names. Plaintiff will seek to amend this complaint and include  
22 these Doe defendants’ true names and capacities when they are ascertained. Each of the fictitiously  
23 named defendants is responsible in some manner for the conduct alleged herein and for the injuries  
24 suffered by the Class (as defined below).

25 **IV. CLASS ACTION ALLEGATIONS**

26           30. Plaintiff brings this action as a class action pursuant to §382 of the California Code of  
27 Civil Procedure on behalf of a class consisting of all persons or entities who acquired FireEye common  
28 stock pursuant and/or traceable to the false and misleading Registration Statement and Prospectus  
(Registration No. 333-193717) issued in connection with the Company’s March 7, 2014 Secondary

1 Offering (the “Class”). Excluded from the Class are defendants and their families, the officers,  
2 directors and affiliates of the defendants at all relevant times, the Court and all employees and personnel  
3 of the Court, members of defendants’ immediate families and their legal representatives, heirs,  
4 successors or assigns and any entity in which defendants have or had a controlling interest.

5 31. The members of the Class are so numerous that joinder of all members is impracticable.  
6 FireEye stock was and is actively traded on the NASDAQ. While the exact number of Class members  
7 is unknown to plaintiff at this time and can only be ascertained through appropriate discovery, plaintiff  
8 believes that there are thousands of members in the proposed Class. Record owners and other members  
9 of the Class may be identified from records maintained by FireEye or its transfer agent and may be  
10 notified of the pendency of this action by mail, using the form of notice similar to that customarily used  
11 in securities class actions. At least 14 million shares of FireEye stock were sold to the public pursuant  
12 to the Secondary Offering.

13 32. Plaintiff’s claims are typical of the claims of the members of the Class, as all members of  
14 the Class are similarly affected by defendants’ wrongful conduct in violation of federal law that is  
15 complained of herein.

16 33. Plaintiff will fairly and adequately protect the interests of the members of the Class and  
17 has retained counsel competent and experienced in class and securities litigation.

18 34. Common questions of law and fact exist as to all members of the Class and predominate  
19 over any questions solely affecting individual members of the Class. Among the questions of law and  
20 fact common to the Class are:

- 21 (a) whether defendants violated the 1933 Act;
- 22 (b) whether statements made by defendants to the investing public in the Registration  
23 Statement and Prospectus for the IPO misrepresented material facts about the business and prospects of  
24 FireEye; and
- 25 (c) to what extent the members of the Class have sustained damages and the proper  
26 measure of damages.

27 35. A class action is superior to all other available methods for the fair and efficient  
28 adjudication of this controversy since joinder of all members is impracticable. Furthermore, as the  
damages suffered by individual Class members may be relatively small, the expense and burden of

1 individual litigation make it impossible for members of the Class to individually redress the wrongs  
2 done to them. There will be no difficulty in the management of this action as a class action.

3 **V. BACKGROUND**

4 36. FireEye’s principal executive offices are located in Milpitas, California. The Company  
5 was incorporated as NetForts, Inc. on February 18, 2004, under the laws of the State of Delaware, and  
6 changed its name to FireEye, Inc. on September 7, 2005.

7 37. FireEye’s stock trades on the NASDAQ exchange under the ticker “FEYE.” The  
8 NASDAQ is an efficient market, and FireEye’s stock is followed by numerous analysts who issue  
9 analyst reports on the stock and quickly incorporate any publicly-reported information about FireEye  
10 into their reports and recommendations. The following analysts cover FireEye:

Firm	Analyst
BofA Merrill Lynch	Tal Liani
Barclays	Raimo Lenschow
Deutsche Bank	Karl Keirstead
Citi	Walter Pritchard
Cowen	Gregg Moscowitz
FBN	Shebly Serafi
FBR	Daniel Ives
Gabelli	Hendi Susanto
Goldman Sachs	Greg Dunham
JP Morgan	Sterling Auty
Morgan Stanley	Keith Weiss
Topeka	Fred Ziegel
Nomura	Rick Sherlund
Oppenheimer	Shaul Eyal
Pacific Crest	Rob Owens
Stephens	Jonathan Ruykhaver
Summit Research	Richard Williams
Imperial Capital	Michael Kim
UBS	Brent Thill

1 Wells Fargo

Gray Powell

2 Wedbush

Sanjit Singh

3 William Blair

Jonathan Ho

4 38. FireEye specializes in stopping advanced cyber attacks that use advanced malware,  
5 zero-day exploits, and APT (“Advanced Persistent Threat”) tactics. The Company’s solutions  
6 supplement traditional and next-generation firewalls, Intrusion Prevention Systems (“IPS”), anti-virus,  
7 and gateways, which cannot stop advanced threats, leaving security holes in networks. FireEye  
8 represents that it offers a solution that detects and blocks attacks across both Web and email threat  
9 vectors as well as latent malware resident on file shares. FireEye represents that its solutions address all  
10 stages of an attack lifecycle with a signature-less engine utilizing stateful attack analysis to detect  
11 zero-day threats.

12 39. In its most recent quarterly report, filed with the SEC on May 14, 2014, FireEye  
13 described its business as follows: “We provide a comprehensive solution of products and services for  
14 detecting, preventing and resolving advanced cybersecurity threats. We have invented a purpose-built,  
15 virtual machine-based security platform that provides real-time protection to enterprises and  
16 governments worldwide against the next generation of cyber attacks. Our technology approach  
17 represents a paradigm shift from how IT security has been conducted since the earliest days of the  
18 information technology industry. The core of our purpose-built, virtual machine-based security platform  
19 is our virtual execution engine, to which we refer as our MVX engine, which identifies and protects  
20 against known and unknown threats that existing signature-based technologies are unable to detect. We  
21 believe it is imperative for organizations to invest in this new approach to security to protect their  
22 critical assets, such as intellectual property and customer and financial data, from the global pandemic  
23 of cybercrime, cyber espionage and cyber warfare. We were founded in 2004 to address the  
24 fundamental limitations of legacy signature-based technologies in detecting and blocking sophisticated  
25 cyber attacks. From 2004 to 2008, we focused our efforts on research and development to build our  
26 virtual machine technology. We released our first product, the Web Threat Prevention appliance, in  
27 2008. Our Web Threat Prevention appliance is designed to analyze and block advanced attacks via the  
28 Web. Since that time, we have continued to enhance our product portfolio, releasing our Email Threat  
Prevention appliance in 2011 and our File Threat Prevention appliance in 2012. Our Email and File



1 Threat Prevention products address advanced threats that are introduced through email attachments and  
2 file shares. Due to the scale of our customer deployments and our customers' desire for deeper analysis  
3 of potential malicious software, we also provide management and analysis appliances, specifically our  
4 Central Management System and our Forensic Analysis System. We support and enhance the  
5 functionality of our products through our Dynamic Threat Intelligence, or DTI, cloud, a subscription  
6 service that offers global threat intelligence sharing and provides a closed-loop system that leverages  
7 the network effects of a globally distributed, automated threat analysis network. Our years of research  
8 and development in virtual machine technology, anomaly detection and associated heuristic algorithms  
9 has enabled us to provide signature-less threat protection against next-generation cyber attacks.”

10 40. FireEye sells the majority of its products, subscriptions and services to end-customers  
11 through distributors, resellers, and strategic partners, with a lesser percentage of sales directly to  
12 end-customers. The Company primarily sells its virtual machine-based security platform to Global 2000  
13 companies in a broad range of industries and governments worldwide. According to FireEye's most  
14 recent quarterly report on Form 10-Q, filed with the SEC on May 14, 2014, the Company's customer  
15 base has grown from approximately 190 customers at the end of 2010 to over 2000 end-customers as of  
16 March 31, 2014, in more than 60 countries, including more than 130 companies included in the Fortune  
17 500.

18 **VI. DEFENDANTS' FALSE AND DEFECTIVE REGISTRATION STATEMENT AND**  
19 **PROSPECTUS**

20 41. The Company's Secondary Offering was accomplished through a Registration Statement  
21 on Form S-1 (File No. 333-193717). On March 3, 2014, an Amendment No. 1 to the S-1 was filed with  
22 the SEC. On March 6, 2014, FireEye filed Amendment No. 2 to the S-1 with the SEC. On March 7,  
23 2014, FireEye filed the final Prospectus with the SEC pursuant to Rule 424(b)(4). All such filings are  
24 collectively referred to herein as the "Registration Statement." The Registration Statement was signed  
25 by Defendants DeWalt, Sheridan, Aziz, Codd, Coughran, Garg, Haque, Lentz and Salem. The  
26 Individual Defendants each had a duty to make a reasonable and diligent investigation of the  
27 truthfulness and accuracy of the statements contained in the Registration Statement.

28 42. Pursuant to the Registration Statement and Prospectus, the Company and selling  
shareholders sold 14 million FireEye shares to the investing public and further granted the Underwriter  
Defendants, defined above, the right to purchase an additional 2.1 million shares. The proceeds obtained

1 from the Offering vastly exceeded the amount raised in FireEye's initial public offering ("IPO") in  
2 September 2013. On March 6, 2014, the stock closed at \$89.55, prior to announcement of the pricing of  
3 the Offering.

4 43. On March 6, 2014, after the close of trading, FireEye issued a press release announcing  
5 the pricing of the Offering. The press release stated:

6 FireEye Announces Pricing of Follow-On Offering

7 MILPITAS, Calif., March 6, 2014 (GLOBE NEWSWIRE) -- FireEye, Inc.  
8 (Nasdaq:FEYE), the leader in stopping today's advanced cyber attacks, today  
9 announced the pricing of its follow-on public offering of 14,000,000 shares of its  
10 common stock at a price to the public of \$82.00 per share. Of the shares being offered,  
11 5,582,215 are being offered by FireEye and the remaining shares are being offered by  
12 existing stockholders. FireEye will not receive any proceeds from the shares sold by  
13 existing stockholders. In addition, the underwriters have a 30-day option to purchase up  
14 to 2,100,000 additional shares of common stock from FireEye.

11 Morgan Stanley & Co. LLC, Barclays Capital Inc., J.P. Morgan Securities LLC, and  
12 Goldman, Sachs & Co. are acting as lead joint bookrunners for the offering, and UBS  
13 Securities LLC, Deutsche Bank Securities Inc., and Citigroup Global Markets Inc. are  
14 acting as book-running managers for the offering. Pacific Crest Securities LLC and  
15 Nomura Securities International, Inc. are acting as co-managers for the offering.

14 A registration statement relating to these securities has been filed with, and declared  
15 effective by, the Securities and Exchange Commission.

16 44. In the final Prospectus, filed March 7, 2014, FireEye indicated that it would receive  
17 proceeds from the Offering of \$444,009,381, based on its sale of 5,582,215 shares to the public for net  
18 proceeds of \$79.54 per share. The net price per share received by FireEye reflected a commission of  
19 \$2.46 per share paid to the Underwriters, who collectively received commissions of \$34,440,000 for  
20 selling all 14 million shares (both the shares sold by FireEye and the shares sold by the Selling  
21 Shareholders). The Selling Shareholders, who likewise received net proceeds of \$79.54 per share after  
22 deducting the Underwriters' commissions, received net proceeds of \$669,550,619 for their 8,417,785  
23 shares.

24 45. The Underwriter Defendants had a 30-day option to purchase up to 2.1 million shares of  
25 FireEye stock in connection with the Offering.

26 46. Each Underwriter was allotted the following amount of the total 14 million shares to sell  
27 to the public in the Secondary Offering:  
28

	Name	Number of Shares
1	Morgan Stanley & Co. LLC	4,200,000
2	Barclays Capital Inc.	2,100,000
3	J.P. Morgan Securities LLC	2,100,000
4	Goldman, Sachs & Co.	2,100,000
5	UBS Securities LLC	980,000
6	Deutsche Bank Securities Inc.	980,000
7	Citigroup Global Markets Inc.	980,000
8	Pacific Crest Securities LLC	280,000
9	Nomura Securities International, Inc.	280,000
10	Total:	14,000,000

47. The Prospectus also disclosed the following with respect to the Underwriters' plans to sell the stock to the public:

“The underwriters initially propose to offer part of the shares of common stock directly to the public at the offering price listed on the cover page of this prospectus and part to certain dealers, at such offering price less a selling concession not in excess of \$1.476 per share. After the initial offering of the shares of common stock, the offering price, and other selling terms may from time to time be varied by the representatives. The offering of the shares by the underwriters is subject to receipt and acceptance and subject to the underwriters' right to reject any order in whole or in part. Nomura Securities International, Inc. may resell shares to or through one or more of its affiliates as selling agent.”

**VII. THE REGISTRATION STATEMENT CONTAINED NUMEROUS UNTRUE STATEMENTS OF MATERIAL FACTS AND OMITTED MATERIAL FACTS**

**A. The Registration Statement Failed to Disclose the Reasons Key Insiders Were Selling Stock In the Offering**

48. FireEye's Registration Statement contained materially false statements and omitted numerous other material facts. One of the things the stock market was worried about was the risk that the large number of shares being sold in the Offering would put downward pressure on FireEye's stock price by flooding the market with additional shares.

49. In addition, a reasonable investor would also be interested in any information about the reasons the Selling Shareholders were selling some of their FireEye stock in the Secondary Offering, since selling stock can be a sign of bearish sentiment or otherwise indicate that the insiders think a price decline in the stock is imminent. The reasons for FireEye's officers and directors sale of some of their FireEye holdings in the Offering were material to investors and the Company had an obligation to disclose such reasons.

50. Sales of stock by Company insiders are always material to investors, and for that reason have to be promptly disclosed on Form 4s filed with the SEC. Given the materiality of information about potential future sales of FireEye stock, including potential sales by Company insiders, the

1 Registration Statement contained a section entitled “Shares Eligible for Future Sale.” That section  
2 stated:

3 “Future sales of substantial amounts of shares of common stock, including shares issued  
4 upon the exercise of outstanding options, in the public market after this offering, or the  
5 possibility of these sales occurring, could adversely affect the prevailing market price  
6 for our common stock or impair our ability to raise equity capital.

7 Upon the completion of this offering, a total of 144,136,573 shares of common stock  
8 will be outstanding. Of these shares, all 17,450,000 shares of common stock sold in our  
9 initial public offering, all 5,582,215 shares of common stock sold in this offering by us,  
10 all 8,417,785 shares sold in this offering by the selling stockholders, and any shares sold  
11 upon the exercise of the underwriters’ option to purchase additional shares will be freely  
12 tradable in the public market without restriction or further registration under the  
13 Securities Act, unless these shares are held by “affiliates,” as that term is defined in  
14 Rule 144 under the Securities Act.

15 The remaining 112,686,573 shares of common stock will be “restricted securities,” as  
16 that term is defined in Rule 144 under the Securities Act. These restricted securities are  
17 eligible for public sale only if they are registered under the Securities Act or if they  
18 qualify for an exemption from registration under Rules 144 or 701 under the Securities  
19 Act, which are summarized below.

20 As a result of the lock-up agreements described below, these restricted securities will be  
21 available for sale in the public market at various times as follows, subject to the  
22 provisions of Rule 144 or 701 under the Securities Act and, where applicable,  
23 compliance with our insider trading policy:

- 24 • 14,664,639 shares will be eligible for sale in the public market on  
25 March 19, 2014 upon the expiration of lock-up agreements entered into  
26 in connection with our initial public offering;
- 27 • 95,610,568 shares will be eligible for sale in the public market upon the  
28 expiration of lock-up agreements entered into in connection with this  
offering, assuming the effectiveness of the resale registration statement  
for former stockholders of Mandiant (as described below under “—  
Resale Rights for Former Stockholders of Mandiant”); and
- 1,927 shares will be eligible for sale in the public market on June 30,  
2014.

The remaining restricted securities will continue to be held in escrow subject to the  
terms and conditions of the merger agreement governing our acquisition of Mandiant.”

51. The Registration Statement also contained a statement indicating that FireEye’s officers  
and directors had agreed to an extension of the “Lock Up Period.” The effect of the extension of the  
Lock Up Period was to prohibit FireEye’s officers and directors from selling FireEye stock for another  
75 days:

1           **Lock-Up Agreements**

2           In connection with our initial public offering, we, all of our directors and executive  
3           officers, and the holders of substantially all of our common stock, or securities  
4           exercisable for or convertible into our common stock outstanding immediately prior to  
5           such offering agreed that, without the prior written consent of Morgan Stanley & Co.  
6           LLC and Goldman, Sachs & Co., on behalf of the underwriters, we and they will not,  
7           during the period through March 18, 2014:

- 8           •     offer, pledge, sell, contract to sell, sell any option or contract to purchase,  
9           purchase any option or contract to sell, grant any option, right or warrant to  
10           purchase, lend or otherwise transfer or dispose of, directly or indirectly,  
11           any shares of common stock or any other securities convertible into or  
12           exercisable or exchangeable for shares of common stock;
  
- 13           •     file any registration statement with the Securities and Exchange  
14           Commission relating to the offering of any shares of common stock or any  
15           securities convertible into or exercisable or exchangeable for common  
16           stock; or
  
- 17           •     enter into any swap or other arrangement that transfers to another, in whole  
18           or in part, any of the economic consequences of ownership of our common  
19           stock;

20           whether any such transaction described above is to be settled by delivery of common  
21           stock or such other securities, in cash or otherwise. This agreement is subject to certain  
22           exceptions as set forth in the section entitled “Underwriters.” Morgan Stanley & Co.  
23           LLC and Goldman, Sachs & Co., on behalf of the underwriters, have consented to the  
24           release of these lock-up restrictions with respect to 8,417,785 shares of common stock to  
25           be sold in this offering by the selling stockholders, including certain of our directors,  
26           executive officers and employees. The release took effect upon the pricing of this  
27           offering.

28           In addition, in connection with this offering, we, all of our directors and officers and  
29           certain holders of our common stock and securities exercisable for or convertible into  
30           our common stock outstanding immediately prior to this offering have agreed to extend  
31           the restricted period for an additional period ending 75 days after the date of this  
32           prospectus, as described in further detail in the section entitled “Underwriters.”

33           52.     Thus, information about the potential future sale of additional FireEye stock by  
34           Company insiders, above and beyond the amounts being sold in the Offering, was material to investors  
35           and was disclosed in the Prospectus. Equally material, however, was the *reason* FireEye’s insiders  
36           were selling a large amount of their stock in the Offering. That information was *not* disclosed. The  
37           above-referenced portions of the Registration Statement were false and misleading because they failed  
38           to disclose that the reason the Company’s insiders were selling a large amount of their stock was that  
39           they possessed material, non-public information about the Company’s financial performance and  
40           prospects which caused them to anticipate a decline in the Company’s stock price, and that as a result  
41           the insiders wanted to sell some of their FireEye stock before the price declined.

1           53.     The insiders sold a large chunk of their FireEye stock in the Offering, not minor  
2 shareholdings. Their sale of stock in the Offering did not represent some ongoing, marginal sale of  
3 stock in order to “diversify” their holdings, but represented a perfectly-timed sale of almost 10% of  
4 their total holdings at the very peak of the stock’s price, during a time when the insiders possessed  
5 material, non-public information. In the Offering, 13 of FireEye’s executive officers and directors sold  
6 stock – a combined 4,483,133 shares by persons who collectively, before the sale, owned 47,542,297  
7 shares of FireEye stock. Thus, the insiders collectively unloaded 9.4% of their holdings in the Offering.  
8 As an example, CEO David DeWalt sold almost 10% of his FireEye stock in the Offering for proceeds  
9 of \$38.6 million. Defendant Sheridan, FireEye’s CFO, sold 10% of his stock; Senior Vice President  
10 and COO of FireEye, Kevin Mandia, who was also the founder of Mandiant, sold 7% of his shares  
11 (227,586 shares) for \$18.1 million in proceeds in the Offering. Defendant Aziz, the Company’s CTO,  
12 sold 1,043,904 shares out of 10,835,000 total shares held, thus selling 9.6% of his total holdings for  
13 proceeds in excess of \$83 million.

14           54.     This omitted information was highly material to investors because the Company’s  
15 insiders, including its CEO, CFO, COO and CTO, possessed inside information about the Company’s  
16 results and prospects, and their bearish view of the Company’s stock price would be material to any  
17 reasonable investor considering a purchase of FireEye stock in the Offering. Thus, the Registration  
18 Statement should have disclosed the true reasons for the sale of FireEye stock by DeWalt, Sheridan,  
19 Mandia, Aziz, and the other insiders in the Offering. The Registration Statement omitted these material  
20 facts and instead falsely stated that the Selling Shareholders were selling in the Offering in order to  
21 “facilitate an orderly distribution of [their] shares: “The principal purposes of this offering are to  
22 increase our capitalization and financial flexibility, obtain additional capital, facilitate an orderly  
23 distribution of shares for the selling stockholders in this offering and increase our public float.”

23           **B.     The Registration Statement Failed to Disclose the Fact That Defendants**  
24           **Knew the Company’s Revenue Growth Was Experiencing a Significant**  
25           **Deceleration**

26           55.     In the Registration Statement, Defendants emphasized FireEye’s rapidly expanding  
27 revenue growth for the past three years. The Registration Statement contained the following chart  
28 touting such growth:

	Year Ended or as of December 31,		
	2011	2012	2013
	(Dollars in thousands)		
Product revenue	\$ 24,888	\$ 52,265	88,253
Subscription and services revenue	8,770	31,051	73,299
Total revenue	<u>\$ 33,658</u>	<u>\$ 83,316</u>	<u>161,552</u>
Year-over-year percentage increase	186%	148%	94 %
Gross margin percentage	78%	79%	70 %
Deferred revenue, current portion	\$ 16,215	\$ 43,750	110,535
Deferred revenue, non-current portion	\$ 13,887	\$ 32,656	76,979
Billings (non-GAAP)	\$ 57,494	\$ 129,620	256,561
Net cash provided by (used in) operating activities	\$ 5,111	\$ 21,500	(69,762)
Free cash flow (non-GAAP)	\$ (106)	\$ 2,652	(127,322)

56. Commenting on such rapid revenue growth, the Registration Statement stated:

For 2011, 2012, and 2013, our revenue was \$33.7 million, \$83.3 million and \$161.6 million, respectively, **representing year-over-year growth of 186% for 2011, 148% for 2012 and 94% for 2013**, and our net losses were \$16.8 million, \$35.8 million and \$120.6 million, respectively. **Subscription and services revenue has increased as a percentage of revenue over the last three years, from 26% in 2011 to 37% in 2012 and to 45% in 2013**, while our product revenue has decreased as a percentage of revenue, from 74% in 2011 to 63% in 2012 and to 55% in 2013. The increase in subscription and services revenue as a percentage of total revenue is primarily due to the growth of our installed base in conjunction with the increase in product sales and renewals of the related subscription and services from existing customers.

\* \* \*

**Total revenue increased by \$78.2 million, or 94%, during the year ended December 31, 2013, compared to the year ended December 31, 2012. The increase in product revenue was primarily driven by growth in our installed base of customers, which grew from 927 as of December 31, 2012 to 1,964 as of December 31, 2013, as well as follow-on purchases from customers expanding their initial deployments of our product portfolio.** Our Web Threat Prevention product continued to account for the largest portion of our product revenue as customers that purchase our product portfolio generally purchase more Web Threat Prevention appliances than Email Threat Prevention or File Threat Prevention appliances, reflecting the fact that their networks typically have more Web entry points than email or file entry points to protect.

\* \* \*

**Total revenue increased by \$49.7 million, or 148%, during the year ended December 31, 2012 compared to the year ended December 31, 2011. The increase in product revenue was primarily driven by growth in our installed base of customers, which grew from 485 as of December 31, 2011 to 927 as of December 31, 2012**, as well as follow-on purchases from customers expanding their initial deployments of our product portfolio. Revenue from our Web Threat Prevention product accounted for the largest portion of our product revenue.

\* \* \*

**We have experience rapid growth over the last several years, increasing our revenue at compound annual growth rate of 139% from 2010 to 2013.**

1 57. These statements omitted material facts because in 2014, FireEye’s product and revenue  
2 growth decelerated to 59%-81% year-over-year versus 79%-95% and 73%-108% in the June and  
3 September quarters, respectively. The Company’s deceleration is significant when compared to the  
4 prior quarters of 100%+ growth.

5 58. In May 2014, just six weeks after the Offering, investors discovered that revenue growth  
6 was not going to continue at the rate FireEye originally represented.

7 59. The Registration Statement did contain a purported disclosure stating that FireEye  
8 expected its growth rate to decline at some unspecified point in the future. The boilerplate disclosure  
9 stated:

10 “We expect our revenue growth rate to decline, and as our costs increase, we may not be  
11 able to generate sufficient revenue to achieve and maintain profitability over the long  
12 term.”

13 From the year ended December 31, 2010 to the year ended December 31, 2013, our  
14 revenue grew from \$11.8 million to \$161.6 million, which represents a compounded  
15 annual growth rate of approximately 139%. We expect that, to the extent our revenue  
16 increases to higher levels, our revenue growth rate will decline, and we may not be able  
17 to generate sufficient revenue to achieve or maintain profitability.”

18 60. The purported risk disclosure was itself false and misleading because, at the time it was  
19 included in the Registration Statement, Defendants had *actual knowledge* that FireEye’s growth rate had  
20 *already declined*. Defendants failed to disclose this material information in the Registration Statement.  
21 Instead, Defendants concealed this key information and did not disclose it until two months later, when  
22 FireEye disclosed its Q1 2014 financial results.

23 61. On May 6, 2014, Barron’s published an article entitled “FireEye Down 9%: Q1 Beats;  
24 Q2, Year Losses Higher Than Consensus. In the article, Barron’s noted: “Shares of security network  
25 operator FireEye (FEYE) are down \$2.61, over 7%, at \$34.52, after the company this afternoon reported  
26 Q1 revenue that slightly beat analysts’ estimates, and a net loss in line with expectations, forecast this  
27 quarter’s revenue above consensus, but also a deeper-than-expected loss, and projected the year’s  
28 revenue higher and losses deeper as well. Revenue in the three months ended in March rose 161%, year  
over year, to \$74 million, yielding a net loss of 53 cents. Analysts had been modeling \$71.6 million and  
a 53-cent loss.”

62. On May 7, 2014, Barron’s published an article entitled “FireEye Plunges 26% on  
Lockup Expiry, ‘Messy’ Numbers; Targets Going Down.” In the article, Barron’s noted that several



1 analysts believed that FireEye was being “opaque” with respect to its earnings guidance and that  
2 analysts were cutting price targets for FireEye stock in order “to accommodate what seems to be the  
3 new valuation reality as the sell side sees it.”

4 63. On May 11, 2014, in its Q1 2014 Results, FireEye reported weaker than expected  
5 revenues and significantly downgraded its revenue guidance for 2014, sending the Company’s stock  
6 price plunging.

7 64. On May 12, 2014 Motley Fool published an article by David Eller entitled “FireEye’s  
8 Biggest Problem is Management Credibility.” The article stated: “FireEye (NASDAQ: FEYE ) shares  
9 dropped 8% during regular market hours the day before it announced earnings, but the reaction once the  
10 numbers came out made that drop look small. Shares continued to tumble an additional 16% overnight,  
11 then dropped another 8% during the regular session . . . Management is accelerating spending without  
12 proving that it can run its business profitably, and it has lost credibility with timed stock sales. The way  
13 this flows through to the financials is in guidance, which for the coming quarter is now expected to be a  
14 loss of \$0.63-\$0.58, compared with prior expectations for a loss of \$0.51. Full-year guidance is for  
15 revenue of \$405 million-\$415 million and a net loss of \$2.10-\$2.30 per share, which is now lower than  
16 the \$2.03 per share the Street was previously expecting. Investors might trust that future profits would  
17 be higher if management hadn’t lost credibility with the stock sales.” The article also stated that, “it’s  
18 difficult to believe that the management team didn’t realize they were going to announce a weaker than  
19 expected quarter six weeks later [after the Offering including the sale of the shares by the CEO] that  
20 would send the shares into a downward spiral.”

21 65. These disclosures caused FireEye’s stock price to decline substantially. Indeed,  
22 FireEye’s stock price and trading volume peaked with the Secondary Offering and then began a  
23 precipitous decline. The \$82 Secondary Offering price has been replaced with a current trading price of  
24 approximately \$33.



C. **Defendants Failed to Disclose Problems FireEye Was Having Integrating Mandiant into FireEye’s Business, as Well as Other Future Acquisitions, and the Acquisitions’ Impact on Future Revenues**

66. On January 2, 2014, FireEye announced the acquisition of Mandiant, stating Mandiant “will be integrated with FireEye to provide global services in cloud solutions including security consulting, incident response and managed services.”

67. In a separate announcement, FireEye raised its Q4 2014 revenue outlook to \$55-57 million from a prior estimate of \$52-54 million, in addition to raising its fiscal year 2013 revenue outlook to \$159-161 million from a prior estimate of \$156-158 million.

68. The Company also stated that “[t]he combination of FireEye and Mandiant brings together two highly complementary companies, each a recognized leader and innovator in security, and creates an organization uniquely qualified to meet organizations’ needs for real-time detection, contextual threat intelligence, and rapid incident response.”

69. The Registration Statement further boasted the integrative opportunities regarding the Mandiant acquisition and stated the following:

*With the addition of Mandiant, we believe there is signification opportunity to leverage the inherent synergies between products and services. For customers that are initially interested in purchasing our products, we are able to offer them the additional protection and expertise that our services provide.* Similarly, when our team of cyber security experts are assisting customers that have experienced a breach, we can help prevent future breaches by introducing them to the value and protection provided by our products.

\* \* \*

In December 2013, we acquired privately held Mandiant, the leading provider of advanced endpoint security products and security incident response management

1 solutions. FireEye and Mandiant have been strategic partners with integrated product  
2 offerings since April 2012. ***We believe the combination of the two companies deepens***  
3 ***this partnership and creates the industry’s leading advanced threat protection vendor***  
4 ***with the ability to find and stop attacks at every stage of the attack life cycle. The***  
5 ***products and services from Mandiant enables us to provide a complete solution for***  
6 ***detecting, preventing and resolving advanced cyber security threats across three***  
7 ***distinct disciplines:***

- 8 • First, Mandiant provides endpoint-based advanced threat detection and response.  
9 Mandiant’s endpoint products enable security teams to enhance their visibility and  
10 make faster, more accurate decisions about potential security incidents occurring  
11 across an organization’s network and endpoints.
- 12 • Second, Mandiant brings significant depth in intelligence on next-generation attacks,  
13 which is continually gathered from ongoing monitoring of more than two million  
14 endpoints and by incident response and remediation teams that serve on the front  
15 lines combating the most advanced attacks. ***When this depth of threat intelligence***  
16 ***is paired with the breadth of the FireEye real-time threat intelligence gathered***  
17 ***from more than two million virtual machines, organizations will have robust***  
18 ***detection and contextual information about attempted attacks, including the level***  
19 ***of risk, the identity of the attackers, and the intended target of the attacks.***
- 20 • Third, Mandiant’s team of highly skilled incident response experts has performed  
21 hundreds of incident response investigations across numerous industries at some of  
22 the largest organizations in the world. ***In addition, Mandiant brings its Managed***  
23 ***Defense monitoring service to FireEye. The addition of these skills and expertise***  
24 ***significantly expands our ability to offer value-added services to our customers.***

25 70. These statements were materially false and misleading because FireEye inflated the  
26 integrative benefits of such an acquisition and did not fully disclose the adverse financial effects caused  
27 by the acquisition.

28 71. Indeed, there is no product overlap between FireEye’s sandboxing technology for  
detection and Mandiant’s endpoint incident response and forensics capabilities. FireEye failed to state  
the difficulty in trying to get customers to adopt yet another endpoint agent, something that network  
security vendors have often found difficult to accomplish.

72. In addition, more than \$700 million of the \$1 billion acquisition of Mandiant was  
categorized as “goodwill,” raising the risk of a massive write-off.

73. FireEye’s acquisition of Mandiant so quickly after its IPO is extremely rare and usually  
indicative of a weakness in the Company’s core business. At the same time FireEye was touting  
spectacular growth in its core business, FireEye bought an outside company to increase its margins and  
revenue growth rates, thus revealing that Defendants knew that FireEye’s revenue growth from its core  
business was about to experience significant deceleration and needed to be supplemented by buying an

1 outside company.

2 74. Furthermore, Mandiant had been a strategic alliance partner of FireEye since April 2012.  
3 Mandiant and FireEye target different buyers: endpoint protection and network operations, respectively.  
4 FireEye's decision to acquire Mandiant instead of continuing the partnership cloaked the reality that  
5 FireEye's growth was slowing.

6 75. Prior to the Offering, Defendants had repeatedly touted FireEye's strong growth and  
7 earnings and the fact that FireEye's stock performance significantly exceeded certain benchmarks,  
8 including the S&P 500. After the Offering, however, FireEye's stock performance has significantly  
9 under-performed that of the S&P 500 Index, as the chart below indicates:



10  
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16  
17 **D. Defendants Failed to Disclose Material Problems FireEye was Having  
With Its Securities Breach Detection Software**

18 76. The Registration Statement repeatedly identified the success and effectiveness of  
19 FireEye's detection and/or response regarding customer security breaches. The Registration Statement  
20 noted the following regarding its products' efficacy:

21 We also offer a forensic analysis appliance that provides IT security analysts with the  
22 ability to test, characterize and conduct forensic examinations on next-generation cyber  
23 attacks by simulating their execution path with our virtual machine technology. Our  
24 cloud-based mobile threat prevention platform identifies and stops mobile threats by  
analyzing mobile applications within our MVX engine. *Finally, we offer incident  
response and managed services to assist our customers who have been breached as  
part of our full service solution to combat advanced threats.*

25 \* \* \*

26 We also provide a team of industry-leading experts in the security industry and managed  
27 services to help organizations respond faster to breaches and minimize the exposure to  
28 their businesses.

\* \* \*

1 Furthermore, *in the event of a breach, we can leverage our industry-leading team of*  
2 *consultants to respond quickly to threats to a customer’s environment, scope and*  
3 *minimize damage, and quickly restore the environment to an operational state.*

4 \* \* \*

5 Similarly, *when our team of cyber security experts are assisting customers that have*  
6 *experienced a breach, we can help prevent future breaches by introducing them to the*  
7 *value and protection provided by our products.*

8 77. Still, FireEye scored “below average” on its breach detection systems in a comparative  
9 group product test conducted by NSS Labs (“NSS”). NSS is an independent network testing facility,  
10 security, and consultancy organization.

11 78. FireEye received bottom scores in the evaluation and an overall rating of “caution” to  
12 buyers. NSS Labs indicates the “caution” designation means products “offer limited valued for money  
13 given the 3-year TCO [total cost of ownership] and measured security effectiveness rating.”

14 79. Given the temporal proximity between Defendants’ Secondary Offering and the  
15 disclosure of problems plaguing the Company’s products, it is reasonable to infer that Defendants  
16 knew, or should have known with the exercise of reasonable diligence, of these problems at the  
17 time of the Secondary Offering, but did not disclose them to the investing public.

18 80. Furthermore, because Defendants sold stock to the public in a Secondary Offering, via  
19 the Registration Statement, Defendants also had an independent, affirmative duty to provide  
20 adequate disclosures about risks and uncertainties concerning the growth, expansion, and products at  
21 FireEye. *See* Item 303 of SEC Reg. S-K, 17 C.F.R. §229.303(a)(3)(ii) (requiring that the materials  
22 incorporated in a Registration Statement disclose all “known trends or uncertainties” reasonably  
23 expected to have a material unfavorable impact on the Company’s operations). Thus, Defendants had  
24 an affirmative duty to ensure that the Registration Statement and the materials incorporated therein  
25 disclosed all uncertainties that they knew or should have reasonably expected would have a  
26 materially adverse impact on FireEye’s business. Defendant failed to do so.

27 **VIII. THE TRUTH BEGINS TO EMERGE**

28 81. The Registration Statement and Prospectus were false and misleading because they  
failed to disclose: (1) that the reason why several of FireEye’s officers and directors were selling large  
amounts of their stock in the Offering was that they possessed material, non-public information about  
FireEye’s financial results and prospects, including its decelerating organic growth; (2) that Defendants  
timed the Offering to occur immediately prior to a significant deceleration in the Company’s revenue

1 growth; (3) problems FireEye was having integrating Mandiant into FireEye's business, as well as  
2 other future acquisitions, and the acquisitions' impact on future revenues; (4) material problems  
3 FireEye was having with its securities breach detection software; (5) as a result of the foregoing,  
4 the Company's stock price would be severely negatively impacted; and (6) as a result of the  
5 foregoing, FireEye's Registration Statement and incorporated Offering Materials were false,  
6 materially misleading, and/or incomplete at all relevant times.

7 82. Approximately a month after the Offering, investors first began to learn that FireEye was  
8 experiencing significant problems with its business.

9 83. On April 2, 2014, investors learned that when NSS tested how well malware would be  
10 caught, FireEye scored "below average" on its breach detection systems in a comparative group product  
11 test. NSS Labs gave the products from FireEye the bottom scores in this evaluation and an overall rating  
12 of "caution" to buyers.

13 84. On April 3, 2014, FireEye shares declined 7.9% to \$56.64 after FireEye received the  
14 "caution" rating from the NSS Labs study.

15 85. On April 22, 2014, as shares were plummeting, the Company filed for another secondary  
16 offering. The Company stated it would not receive any of the proceeds from the sale of the shares being  
17 offered by its selling stockholders. The sellers for this secondary offering included One Equity, selling  
18 4.3 million shares, and Kevin Mandia, founder of Mandiant, selling 2.5 million shares or about 83% of  
19 his holdings.

20 86. On May 6, 2014, FireEye announced its First Quarter financial results and, for the  
21 second time in two quarters, it revised its full year guidance downward. Management indicated it  
22 expected a full year loss of \$2.10 to \$2.30 per share on revenue of \$405 million to \$415 million, versus  
23 the consensus of a \$2.03 per share loss and revenue of \$407 million. On this news, the price of  
24 FireEye's shares declined by over 28%. The Form 8-K filed with the SEC announcing the Q1 2014  
25 financial results stated:

26 "FireEye provides guidance for the next quarter and current fiscal year based on current  
27 market conditions and expectations. Guidance ranges for all metrics anticipate closing  
28 the nPulse acquisition in the second quarter.

For the second quarter of 2014, FireEye expects total revenue in the range of \$89 to \$91  
million. Additionally, for the second quarter, on a non-GAAP basis, the company  
expects:

- 1 • Total billings in the range of \$108 to \$112 million.
- 2 • Gross margin in the range of 68 to 70 percent.
- 3 • Research and development expenses as a percent of revenue in the range of 48 to 51 percent.
- 4 • Sales and marketing expenses as a percent of revenue in the range of 86 to 89 percent.
- 5 • General and administrative expenses as a percent of revenue in the range of 21 to 24 percent.
- 6
- 7 • Loss per share of \$0.58 to \$0.63.

8 For the full year 2014, the company expects total revenue in the range of \$405 to \$415 million. On a non-GAAP basis, the company expects:

- 9 • Total billings in the range of \$550 to \$570 million.
- 10 • Gross margin in the range of 70 to 73 percent.
- 11 • Research and development expenses as a percent of revenue in the range of 40 to 43 percent.
- 12
- 13 • Sales and marketing expenses as a percent of revenue in the range of 82 to 85 percent.
- 14 • General and administrative expenses as a percent of revenue in the range of 19 to 22 percent.
- 15 • Loss per share of \$2.10 to \$2.30.
- 16

17 87. On a conference call the same day, DeWalt commented that the decline in share price  
18 over the past months may have been due to anxiety brought on by the lock-up expiration on March 19,  
19 2014. In an attempt to subdue this possible anxiety, DeWalt further commented that the top three  
20 executives at FireEye did not have plans to sell. DeWalt stated:

21 And then also, when you look at the shares that are coming off lockup, I would tell you  
22 this. There's a large percentage of those shares held by executives. The executives have  
23 in many ways trading plans that are in place that have caps and limits, ***but I'd also tell you the top three officers here have no plans to sell, don't have a plan to even trade within. So, we're very confident that this business is very strong.***

24 And then there's a large block of shares that come from board members, kind of  
25 insiders, who are disciplined around their distributions. ***So, I think that there's some anxiety there about this cliff that could be there, the insider selling that could be there.*** But, when you look at it from my perspective, probably from Mike's as well,  
26 Kevin Mandia's as well, we're very confident in this business. We like what we see.  
27 We're in it for the long haul, and hopefully the market responds to that, that we're a  
28 good company, good technology, good efforts, good mission here. And the market will  
determine our fate over a period of time, not just over a 60 day period.

88. On May 7, 2014, FireEye shares traded down 25% following the release of its First

1 Quarter 2014 financial results.

2 89. Later on May 7, 2014, DeWalt appeared on CNBC to apologize and confront questions  
3 over having personally sold FireEye shares in the Offering, prior to the release of FireEye's Q1 results.

4 Brian Kelly of Brian Kelly Capital, who had recently sold a losing position in FireEye, stated:

5 Now you're [DeWalt] coming to us saying everything's fantastic, everything's great.  
6 Why were you selling [in the Secondary Offering]? You've lost credibility with me.  
7 How do you get that back from Wall Street? That's why the stock is down 22 percent  
8 today. Nobody believes you anymore.

9 90. DeWalt apologized and stated the following:

10 You know, my selling was consistent with all the executives, all the insiders.

11 I still have 90-plus percent of all my holdings in FireEye. I'm highly motivated to grow  
12 shareholder value, and for a lot of the shareholders, we're going to work very hard to  
13 improve the value of this company over the long haul. I have a lot of track record of  
14 doing so. *I apologize to you if you feel like you lost faith in me*, but I'm going to work  
15 hard for you. I will be there.

16 91. As the extent of these problems became public, the price of FireEye shares began to  
17 decline dramatically. As noted above, the Offering price was \$82.00. The Company's shares currently  
18 trade for approximately \$33 per share.

## 19 **IX. NO SAFE HARBOR**

20 92. Defendants are liable for any false and misleading forward-looking statements issued in  
21 connection with the March 7, 2014 Secondary Offering. The Safe Harbor provision of § 27A of the  
22 1933 Act, 15 U.S.C. 77z-2(b)(2)(D), specifically excludes those statements "made in connection with  
23 an initial public offering," which includes all of the false and misleading statements made in connection  
24 with the Secondary Offering.

## 25 **X. CAUSES OF ACTION**

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

#### 27 **For Violations of §11 of the 1933 Act 28 Against All Defendants**

93. Plaintiff incorporates each and every preceding paragraph by reference.

94. This Cause of Action is brought pursuant to §11 of the 1933 Act, 15 U.S.C. §77k, on  
behalf of the Class, against all defendants.

95. The Registration Statement for the Offering was inaccurate and misleading, contained  
untrue statements of material facts, omitted to state other facts necessary to make the statements made



1 not misleading, and omitted to state material facts required to be stated therein.

2 96. FireEye is the registrant for the Offering. The Defendants named herein were  
3 responsible for the contents and dissemination of the Registration Statement.

4 97. As issuer of the shares, FireEye is strictly liable to Plaintiff and the Class for the  
5 misstatements and omissions in the Registration Statement for the Offering.

6 98. None of the Defendants named herein made a reasonable investigation or possessed  
7 reasonable grounds for the belief that the statements contained in the Registration Statement were true  
8 and without omissions of any material facts and were not misleading.

9 99. By reason of the conduct herein alleged, each Defendant violated, and/or controlled a  
10 person who violated, §11 of the 1933 Act.

11 100. Plaintiff acquired FireEye common stock pursuant and/or traceable to the Registration  
12 Statement for the Secondary Offering.

13 101. Plaintiff and the Class have sustained damages. The value of FireEye common stock has  
14 declined substantially subsequent to and due to Defendants' violations.

15 102. At the time of their purchases of FireEye common stock, Plaintiff and other members of  
16 the Class were without knowledge of the facts concerning the wrongful conduct alleged herein and  
17 could not have reasonably discovered those facts prior to their purchase of FireEye stock. Less than one  
18 year has elapsed from the time that Plaintiff discovered or reasonably could have discovered the facts  
19 upon which this complaint is based to the time that Plaintiff filed this complaint. Less than three years  
20 has elapsed between the time that the securities upon which this Cause of Action is brought were  
21 offered to the public and the time Plaintiff filed this complaint.

22 **SECOND CAUSE OF ACTION**  
23 **For Violation of §12(a)(2) of the 1933 Act**  
24 **Against All Defendants**

25 103. Plaintiff incorporates each and every preceding paragraph by reference.

26 104. This Cause of Action is brought pursuant to §12(a)(2) of the 1933 Act, 15 U.S.C.  
27 §771(a)(2), on behalf of the Class, against all Defendants.

28 105. By means of the defective Prospectus, defendants promoted and sold FireEye stock to  
Plaintiff and other members of the Class.

106. The Prospectus for the Offering contained untrue statements of material fact, and

1 concealed and failed to disclose material facts, as detailed above. Defendants owed Plaintiff and the  
2 other members of the Class who purchased FireEye common stock pursuant to the Prospectus the duty  
3 to make a reasonable and diligent investigation of the statements contained in the Prospectus to ensure  
4 that such statements were true and that there was no omission to state a material fact required to be  
5 stated in order to make the statements contained therein not misleading. Defendants, in the exercise of  
6 reasonable care, should have known of the misstatements and omissions contained in the Prospectus as  
7 set forth above.

8 107. Plaintiff did not know, nor in the exercise of reasonable diligence could have known, of  
9 the untruths and omissions contained in the Prospectus at the time Plaintiff acquired FireEye common  
10 stock.

11 108. By reason of the conduct alleged herein, defendants violated §12(a)(2) of the 1933 Act.  
12 As a direct and proximate result of such violations, Plaintiff and the other members of the Class who  
13 purchased FireEye common stock pursuant to the Prospectus sustained substantial damages in  
14 connection with their purchases of the stock. Accordingly, Plaintiff and the other members of the Class  
15 who hold the common stock issued pursuant to the Prospectus have the right to rescind and recover the  
16 consideration paid for their shares, and hereby tender their common stock to the defendants sued herein.  
17 Class members who have sold their common stock seek damages to the extent permitted by law.

18 **THIRD CAUSE OF ACTION**  
19 **For Violation of Section 15 of the 1933 Act**  
20 **Against FireEye and the Individual Defendants**

21 109. Plaintiff incorporates each and every preceding paragraph by reference.

22 110. This Cause of Action is brought pursuant to Section 15 of the 1933 Act against FireEye  
23 and the Individual Defendants.

24 111. The Individual Defendants each were control persons of FireEye by virtue of their  
25 positions as directors and/or senior officers of FireEye. The Individual Defendants each had a series of  
26 direct and/or indirect business and/or personal relationships with other directors and/or officers and/or  
27 major shareholders of FireEye. The Company controlled the Individual Defendants and all of FireEye's  
28 employees.

112. The defendants each were culpable participants in the violations of §11 of the 1933 Act  
alleged in the Cause of Action above, based on their having signed or authorized the signing of the

1 Registration Statements and having otherwise participated in the process which allowed the Offering to  
2 be successfully completed.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, plaintiff prays for relief and judgment, as follows:

5 A. Declaring this action to be a proper class action and certifying Plaintiff as a class  
6 representative;

7 B. Awarding compensatory damages in favor of the Plaintiff and the other Class members  
8 against all Defendants, jointly and severally, for all damages sustained as a result of Defendants'  
9 wrongdoing, in an amount to be proven at trial, including interest thereon;

10 C. Awarding Plaintiff and the Class their reasonable costs and expenses incurred in this  
11 action, including attorneys' fees and expert fees;

12 D. Awarding rescission or a rescissory measure of damages; and

13 E. Awarding such equitable/injunctive or other relief as the Court may deem just and  
14 proper.

15 **JURY DEMAND**

16 Plaintiff hereby demands a trial by jury.

17 DATED: July 17, 2014

18 BOTTINI & BOTTINI, INC.  
19 FRANCIS A. BOTTINI, JR.  
20 ALBERT Y. CHANG  
21 YURY A. KOLESNIKOV

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