

FINJAN HOLDINGS, INC.
Form S-8
March 13, 2019

As filed with the Securities and Exchange Commission on March 13, 2019.
Registration No. 333-

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

FORM S-8

REGISTRATION STATEMENT

Under
The Securities Act Of 1933
FINJAN HOLDINGS, INC.
(Exact name of registrant as specified in its charter)

Delaware 20-4075963
(State or other jurisdiction of incorporation or organization) (I.R.S. Employer Identification No.)

2000 University Avenue, Suite 600, East Palo Alto, CA 94303
(Address of Principal Executive Offices) (Zip Code)

FINJAN HOLDINGS, INC. AMENDED AND RESTATED 2014 INCENTIVE COMPENSATION PLAN
(Full Title of the Plan)

Philip Hartstein
President & Chief Executive Officer
Finjan Holdings, Inc.
2000 University Avenue, Suite 600
East Palo Alto, CA 94303
(Name and address of agent for service)

(650) 282-3228
(Telephone number, including area code, of agent for service)

Copy to:
Jon C. Gonzales
GCA Law Partners LLP
2570 W. El Camino Real, Suite 400
Mountain View, CA 94040 (650) 237-7204

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

Large accelerated filer Accelerated filer

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Non-accelerated filer Smaller reporting company
Emerging growth company

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 7(a)(2)(B) of the Securities Act.

CALCULATION OF REGISTRATION FEE

Title of Securities to be Registered	Amount to be Registered ⁽¹⁾	Proposed Maximum Offering Price ⁽³⁾	Proposed Maximum Aggregate Offering Price ⁽¹⁾	Amount of Registration Fee
Common Stock, \$0.0001 par value per share, reserved for issuance pursuant to the Amended and Restated 2014 Equity Incentive Plan	1,378,432 shares ⁽²⁾	\$2.78	\$3,832,040.96	

\$464.44_____

(1) Pursuant to Rule 416(a) under the Securities Act of 1933, as amended (the "Securities Act"), the registration statement also covers an indeterminate number of additional shares of the Registrant's common stock which may be issued under the adjustment provisions of the Finjan Holdings, Inc. Amended and Restated 2014 Incentive Compensation Plan (the "Plan") by reason of any stock dividend, stock split, recapitalization or other similar transaction effected without receipt of consideration that increases the number of Registrant's outstanding shares of common stock..

(2) Represents shares of Registrant's common stock automatically added to the shares reserved for issuance under the Plan on January 1, 2019 pursuant to an "evergreen" provision contained in the Plan. Pursuant to such evergreen provision, on January 1 of each year, the number of shares reserved for issuance under the Plan is automatically increased by a number equal to 5% of the outstanding shares of common stock on December 31 of the preceding year. The Registrant's Board may act prior to January 1st of a given year to provide that there will be a smaller increase in the available shares reserved for issuance for such year.

(3) Estimated in accordance with Rule 457(c) and (h) of the Securities Act solely for the purposes of calculating the total registration fee based on the average of the high and low sale prices of the Registrant's common stock reported on The NASDAQ Capital Market on March 12, 2019.

PART I
INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS

INCORPORATION BY REFERENCE OF CONTENTS OF
REGISTRATION STATEMENTS ON FORM S-8 NOS. 333-197369 AND 333-223665

This Registration Statement is being filed for the purpose of increasing the number of securities of the same class for which Registration Statements on Form S-8 relating to the same benefit plan are effective. The Registrant previously registered shares of its Common Stock for issuance under the 2014 Incentive Compensation Plan (the “Original Plan”), as amended and restated on June 21, 2017 (the “Restated Plan” or the “Plan”) under Registration Statements on Form S-8 filed with the Securities and Exchange Commission (the “Commission”) on July 11, 2014 (File No. 333-197369) and on March 15, 2018 (File No. 333-223665). Pursuant to General Instruction E to Form S-8, this Registration Statement hereby incorporates by reference the contents of the Registration Statements referenced above.

PART II
INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference

Finjan Holdings, Inc. (the “Registrant”) hereby incorporates by reference in this Registration Statement the following documents and information previously filed with the Commission:

- (1) The Registrant’s Annual Report on Form 10-K for the fiscal year ended December 31, 2018 (File No. 001-33304), filed with the Commission on March 13, 2019;
All other reports filed pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended (the
- (2) “Exchange Act”) since the end of the fiscal year covered by the Registrant’s Annual Report referred to in (a) above (other than the portions of these documents not deemed to be filed); and
The description of the Registrant’s common stock, par value \$0.0001 per share, contained in the Registrant’s
- (3) Registration Statement on Form 8-A (File No. 001-33304), filed with the Commission on May 7, 2014, and any amendments or reports filed for the purpose of updating such description.

All documents filed by the Registrant pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act on or after the date of this Registration Statement and prior to the filing of a post-effective amendment to this Registration Statement that indicates that all securities offered have been sold or that deregisters all securities then remaining unsold shall be deemed to be incorporated by reference in this Registration Statement and to be part hereof from the date of filing of such documents; provided, however, that documents or information deemed to have been furnished and not filed in accordance with the rules of the Commission shall not be deemed incorporated by reference into this Registration Statement.

Any statement contained in a document incorporated or deemed to be incorporated by reference herein shall be deemed to be modified or superseded for purposes of this Registration Statement to the extent that a statement contained herein or in any subsequently filed document which also is deemed to be incorporated by reference herein modifies or supersedes such statement. Any such statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this Registration Statement.

Item 8. Exhibits

Exhibit Number	Exhibit Description
4.1	<u>Amended and Restated Certificate of Incorporation of the Company (incorporated by reference to Exhibit 3.1 to Registrant's current report on Form 8-K filed July 11, 2014)</u>
4.2	<u>Amended and Restated Bylaws, adopted July 10, 2014 (incorporated by reference to Exhibit 3.2 to Registrant's current report on Form 8-K filed July 11, 2014)</u>
4.3	<u>Finjan Holdings, Inc. Amended and Restated 2014 Incentive Compensation Plan (incorporated by reference to Exhibit 10.8 to Registrant's annual report on Form 10-K filed March 14, 2018)</u>
5.1	<u>Opinion of GCA Law Partners LLP regarding the validity of the shares registered*</u>
23.1	<u>Consent of Marcum LLP*</u>
23.2	<u>Consent of GCA Law Partners LLP (included in Exhibit 5.1)*</u>
24	Power of Attorney (included on the signature page hereto).

*Filed herewith

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the Company certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized in the City of East Palo Alto, State of California, on March 13, 2019.

FINJAN HOLDINGS, INC.

Date: March 13, 2019 By: /s/ Philip Hartstein
Philip Hartstein
President & Chief Executive Officer

POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE REPRESENTS, that each person whose signature appears below hereby constitutes and appoints Philip Hartstein and Michael Noonan, and each of them severally, acting alone and without the other, his true and lawful attorneys-in-fact and agents, with full power of substitution, to sign on his or her behalf, individually and in each capacity stated below, all amendments and post-effective amendments to this Registration Statement on Form S-8 and to file the same, with all exhibits thereto and any other documents in connection therewith, with the Securities and Exchange Commission under the Securities Act of 1933, granting unto said attorneys-in-fact and agents full power and authority to do and perform each and every act and thing requisite and necessary to be done in and about the premises, as fully and to all intents and purposes as each might or could do in person, hereby ratifying and confirming each act that said attorneys-in-fact and agents may lawfully do or cause to be done by virtue thereof.

Pursuant to the requirements of the Securities Act of 1933, this Registration Statement has been signed by the following persons in the capacities and on the dates indicated.

Name	Title	Date
	Director	March 13, 2019
Eric Benhamou	Chairman	March 13, 2019
Daniel Chinn	Director	March 13, 2019
Glenn Daniel	Director	March 13, 2019
Harry Kellogg	Director	March 13, 2019
Michael Southworth	Director	March 13, 2019
Alex Rogers	Director	March 13, 2019
Gary Moore	Director	March 13, 2019
John Greene	President & Chief Executive Officer	March 13, 2019

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Philip Hartstein (Principle Executive Officer)

Michael Noonan Chief Financial Officer March 13, 2019
(Principle Financial and Accounting Officer)

INDEX TO EXHIBITS

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