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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

FINJAN, INC., a Delaware Corporation,

Plaintiff,

vs.

SONICWALL INC., a Delaware Corporation

Defendant.

Case No. 5:17-cv-04467-BLF-VKD

**DEFENDANT SONICWALL INC.'S
ADMINISTRATIVE MOTION TO
FILE DOCUMENTS UNDER SEAL**

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1 **I. INTRODUCTION**

2 Pursuant to Civil L.R. 7-11 and 79-5, this Court's Standing Civil Order Re: Civil Cases, the
 3 Parties Stipulated Protective Order (Dkt. 68), the Parties Stipulated Order Regarding Discovery of
 4 Electronically Stored Information (Dkt. 69), and Federal Rule of Civil Procedure 26(b)(5)(B),
 5 Defendant SonicWall Inc. ("SonicWall") hereby moves the Court for leave to file under seal,
 6 pursuant to Civil L.R. 79-5(d)-(e), the items identified in the table below.

Document to Be Filed Under Seal	Designating Party
Exhibits 3-15 to Declaration of Robin McGrath in Support of SonicWall Inc.'s Motion to Compel Further Supplemental Infringement Contentions	Finjan, Inc. and SonicWall Inc.
SonicWall Inc.'s Motion to Compel Further Supplemental Infringement Contentions, at: Page 6, lines 21-25; Page 7, lines 21-22; Page 8, lines 23-27; Page 9, lines 1-6; Page 10, lines 10-21; 24-27; Page 11, lines 4-10; 16-20; 24; 26; 28; Page 12, lines 6-11; Page 13, lines 7-9; 12-15; 17-19; 21-22; Page 14, lines 19-23; Page 15, lines 3-5; 7-9; 20-27; Page 17, lines 27-28; Page 18, lines 1-6; 12; 24-25; 27-28; Page 19, lines 5-11; 24-26; Page 20, lines 3-11; 13-20; 21-28; Page 21, lines 1-2; 4-9; 12-19; Page 22, lines 1-3; 11-14; 25-28; Page 23, lines 1; 18-20; 23; Page 24, lines 1-4; 6-10; 19-21.	Finjan, Inc. and SonicWall Inc.

23 **II. ARGUMENT**

24 **A. Legal Standard**

25 There is a presumption of public access to judicial records and documents. *Nixon v. Warner*
 26 *Comme'ns, Inc.*, 435 U.S. 589, 597 (1978). However, records attached to non-dispositive motions,
 27 such is the case here, are not subject to the strong presumption of access. *Finjan, Inc. v. Proofpoint,*
 28 *Inc*, No. 13-CV-05808-HSG, 2015 WL 9023164, at *1 (N.D. Cal. Dec. 16, 2015) (internal citation

1 omitted). Because the documents attached to non-dispositive motions “are often unrelated, or only
2 tangentially related, to the underlying cause of action,” parties moving to seal must meet the lower
3 “good cause” standard of the Federal Rules of Civil Procedure Rule 26(c). *Id.* (internal quotation
4 marks omitted). The “good cause” standard requires a “particularized showing” that “specific
5 prejudice or harm will result” if the information is disclosed. *Phillips ex rel. Estates of Byrd v. Gen.
6 Motors Corp.*, 307 F.3d 1206, 1210-11 (9th Cir. 2002) (internal quotation marks omitted); *see* Fed.
7 R. Civ. P. 26(c). “Broad allegations of harm, unsubstantiated by specific examples of articulated
8 reasoning” will not suffice. *Beckman Indus., Inc. v. Int’l Ins. Co.*, 966 F.2d 470, 476 (9th Cir. 1992).

9 Sealing is appropriate where the requesting party “establishes that the document, or portions
10 thereof is privileged or protectable as a trade secret or otherwise entitled to protection under the
11 law.” N.D. Cal. Civ. L.R. 79–5(a). A party must “narrowly tailor” its request to sealable material
12 only. *Id.*

13 **B. SonicWall’s Administrative Motion to Seal Is Supported By Good Cause and Is**
14 **Narrowly Tailored**

15 SonicWall seeks to seal select portions of SonicWall’s Motion to Compel Further
16 Supplemental Infringement Contentions, and Exhibits 3-15 to the Declaration of Robin McGrath in
17 support. These documents consist of appendices to Finjan’s Supplemental Infringement
18 Contentions, each of which is designated by Finjan as “Highly Confidential – Attorneys’ Eyes Only”
19 pursuant to the terms of the Stipulated Protective Order. *See* Declaration of Patrick S. Salceda in
20 Support of Administrative Motion to File Documents Under Seal (“Salceda Declaration”), ¶¶ 3-15.
21 Moreover, each of these appendices cite to and quote from various internal SonicWall documents,
22 such as functional specifications and design materials that SonicWall considers confidential and
23 proprietary and are not to be disclosed without the consent of SonicWall. Salceda Decl., ¶ 16. Public
24 disclosure of the information contained in Exhibits 3-15 to the McGrath Declaration would cause
25 irreparable harm to SonicWall. *Id.*; *see also Andrx Pharms., LLC v. GlaxoSmithKline*, 236 F.R.D.
26 583, 586 (S.D. Fla. 2006) (“Courts dress technical information with a heavy cloak of judicial
27 protection because of the threat of serious economic injury to the disclosure of scientific
28 information.”); *Network Appliance, Inc. v. Sun Microsystems, Inc.*, 2010 WL 841274, at *5 (N.D. Cal.

1 Mar. 10, 2010) (granting application to seal “information regarding NetApp’s internal usability
2 testing of its software”).

3 Further, SonicWall’s administrative motion is narrowly tailored and only seeks to seal those
4 exhibits designated Highly-Confidential Attorneys’ Eyes Only and the select portions of
5 SonicWall’s Motion to Compel that quote from these designated exhibits. *See Kowalsky v. Hewlett-*
6 *Packard Co.*, 2012 WL 892427, at *2 (N.D. Cal. Mar. 14, 2012) (finding sealing appropriate where
7 “[t]he proposed redactions contain[ed] . . . confidential product development information, the
8 disclosure of which could harm [the defendant’s] competitive advantage in the marketplace.”).

9 **III. CONCLUSION**

10 For these reasons, SonicWall respectfully requests that the Court grant its Administrative
11 Motion to Seal.

12 Dated: January 31, 2019

Respectfully submitted,

13
14 /s/ Patrick S. Salceda

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