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15 FINJAN, INC.

16 **IN THE UNITED STATES DISTRICT COURT**
17 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
18 **SAN JOSE DIVISION**

19 FINJAN, INC., a Delaware Corporation,

20 Plaintiff,

21 v.

22 SONICWALL, INC., a Delaware Corporation,

23 Defendant.

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

**PLAINTIFF FINJAN, INC.'S OPPOSITION
TO DEFENDANT SONICWALL, INC.'S
MOTION TO STRIKE SECOND
SUPPLEMENTAL INFRINGEMENT
CONTENTIONS**

Date: October 29, 2019
Time: 10:00 a.m.
Courtroom: Courtroom 2, 5th Floor
Before: Mag. Virginia K. DeMarchi

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1 **I. INTRODUCTION**

2 Defendant SonicWall, Inc.’s (“SonicWall”) Motion to Strike should be denied because Plaintiff
3 Finjan, Inc.’s (“Finjan”) Second Supplemental Infringement Contentions (the “Second Supplement”)
4 provide a level of specificity and elaboration that directly follows the Court’s May 1, 2019 Order and
5 in fact goes beyond the requirements of the Patent Local Rules. Finjan specifically identified the
6 “products, services, [and] components” that it contends infringe as required by the Court’s Order,
7 along with pinpoint citation to source code to the extent SonicWall has made the relevant source code
8 available. Consistent with the Court’s Order, Finjan also revised the formatting of the contentions to
9 make clearer the accused theories and added explanation for the screenshots it included of SonicWall’s
10 public and internal documents. As the Order directed, Finjan also provided a single chart showing how
11 the Gateway products infringe in combination with Capture ATP and a single chart showing how the
12 Email Security products infringe with Capture ATP. Indeed, SonicWall does not dispute that Finjan
13 complied with the Court’s Order in these various respects. Thus, Finjan’s supplement provides
14 SonicWall with more than adequate notice of its infringement contentions.

15 Realizing it can no longer dispute the sufficiency of Finjan’s infringement contentions,
16 SonicWall now attempts in its Motion to fault Finjan for providing too much information. SonicWall
17 cannot have it both ways. Finjan simply provides in its Second Supplement the exact information that
18 SonicWall sought and the Court ordered, including identifying specific names for infringing
19 components and enumerating a finite set of specific contentions for the multiple ways that the accused
20 instrumentalities infringe. None of this supplemental information constitutes a new contention, since it
21 was all part of Finjan’s prior contentions.

22 For instance, most of SonicWall’s new complaints in its Motion concern Finjan’s specific
23 naming of SonicWall’s sandboxes (i.e., CloudAV, GRID, and Capture ATP) in the Second
24 Supplement’s charts for the accused Gateway products (alone) and Email Security products (alone).
25 Yet Finjan made this supplement in direct compliance with the Court’s Order—first, separating the
26 charts for Capture ATP (which is a standalone product/service) from the charts for the Gateway and
27 Email Security products (which include the CloudAV and GRID sandboxes as components), and

1 second, specifically naming the CloudAV and GRID sandbox components in the charts for the
2 Gateway and Email Security products. This is in no way an identification of a new infringement
3 contention since Finjan had already identified these sandboxes as infringing in its prior infringement
4 contentions. [REDACTED]

5 [REDACTED]
6 [REDACTED]
7 For these reasons, as explained further below, SonicWall's Motion is baseless and should be
8 denied.

9 II. FACTUAL BACKGROUND

10 A. Finjan's Second Supplemental Contentions Fully Comply With the Court's Order

11 On November 9, 2018, Finjan served its first supplemental infringement contentions (the "First
12 Supplement") pursuant to agreement of the parties. SonicWall subsequently moved to compel
13 additional detail and clarification regarding these contentions, which the Court granted in an Order
14 dated May 1, 2019 (the "Order") (Dkt. No. 138). The Order set forth specific instructions for the
15 supplemental information and clarification that Finjan was required to provide for its contentions.

16 On May 31, 2019, Finjan served second supplemental infringement contentions (the "Second
17 Supplement") pursuant to the Order. Finjan carefully followed the Court's Order and updated its
18 contentions to address every issue raised. In particular, Finjan split up the charts to specifically
19 identify when the Gateway products were infringing by themselves (*see, e.g.*, Declaration of James
20 Hannah ("Hannah Decl.") filed herewith, Ex. 1, Appendix A-1 (Second Supplement)), when the
21 Gateway products were infringing in combination with Capture ATP service (*see, e.g., id.*, Ex. 2,
22 Appendix A-2 (Second Supplement)), when Capture ATP service infringes by itself (*see, e.g., id.*,
23 Ex. 3, Appendix A-3 (Second Supplement)), when the Email appliances were infringing in
24 combination with Capture ATP service (*see, e.g., id.*, Ex. 4, Appendix A-4 (Second Supplement)), and
25 when the Email appliances were infringing by themselves (*see, e.g., id.*, Ex. 5, Appendix A-5 (Second
26 Supplement)). Finjan similarly provided charts for various other products (including Capture Client
27 and the SMA products), but they are not at issue in SonicWall's motion. Finjan removed placeholder
28

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