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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**

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.

Exhibit No.	Document Title	Portion(s) to Seal	Reason(s) for Sealing
	Joint Discovery Letter	Highlighted portions on pg. 2 and pg. 3	This document reflects information, including the terms of an agreement and deposition testimony that Finjan has designated as "Confidential – Attorneys' Eyes Only" pursuant to the Stipulated Protective Order. <i>See</i> Declaration of Jennifer Forte in Support of Administrative Motion to File Documents Under Seal ("Forte Declaration"), ¶¶ 2-4.
Ex. A	Finjan, Inc.'s Supplemental Privilege and Redaction Log	Entire Document	This document reflects information that Finjan has designated as "Confidential – Attorneys' Eyes Only" pursuant to the Stipulated Protective Order. <i>See</i> Forte Declaration, ¶¶ 2-4.

23 **II. ARGUMENT**

24 **A. Legal Standard**

25 There is a presumption of public access to judicial records and documents. *Nixon v. Warner*
 26 *Comm'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 the Joint Letter Brief and Exhibit A thereto. The
16 Joint Letter Brief quotes from an agreement entered into between Finjan, Inc. and Cisco Systems,
17 Inc. as well as deposition testimony from the matter of *Finjan, Inc. v. Cisco Systems, Inc.*, No. 5:17-
18 cv-00072-BLF-SVK which has been designated by the parties in that action as “Confidential –
19 Attorneys’ Eyes Only” pursuant to the Stipulated Protective Order. Exhibit A to the Joint Letter
20 Brief is Finjan’s Supplemental Privilege Log and Redaction Log which Finjan designated
21 “Confidential – Attorneys’ Eyes Only” pursuant to the Stipulated Protective Order.

22 SonicWall contends that public disclosure of this information could cause harm to Finjan.
23 *Id.*; *see also Andrx Pharms., LLC v. GlaxoSmithKline*, 236 F.R.D. 583, 586 (S.D. Fla. 2006) (“Courts
24 dress technical information with a heavy cloak of judicial protection because of the threat of serious
25 economic injury to the disclosure of scientific information.”); *Network Appliance, Inc. v. Sun*
26 *Microsys. Inc.*, 2010 WL 841274, at *5 (N.D. Cal. Mar. 10, 2010) (granting application to seal
27 “information regarding NetApp’s internal usability testing of its software”).

28 SonicWall’s administrative motion is narrowly tailored and only seeks to seal the select

1 portions of the Joint Discover Letter that quote from the information designated as Confidential -
2 Attorneys' Eyes Only. *See Kowalsky v. Hewlett-Packard Co.*, 2012 WL 892427, at *2 (N.D. Cal.
3 Mar. 14, 2012) (finding sealing appropriate where “[t]he proposed redactions contain[ed] . . .
4 confidential product development information, the disclosure of which could harm [the defendant's]
5 competitive advantage in the marketplace.”).

6 **III. CONCLUSION**

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

9 Dated: April 17, 2020

Respectfully submitted,

10 /s/ Nicole E. Grigg

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