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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
Ex. 1	Cisco Systems, Inc. Mutual Non-Disclosure Agreement dated January 19, 2004	Entire Document	The parties in <i>Finjan, Inc. v. Cisco Systems, Inc., No. 5:17-cv-00072-BLF-SVK</i> designated this document as “Highly Confidential – Attorneys’ Eyes Only” pursuant to the Stipulated Protective Order. See Declaration of Jennifer Forte in Support of Administrative Motion to File Documents Under Seal (“Forte Declaration”), ¶¶ 2-4.
Ex. 2	Finjan Software Inc. Amended and Restated Investors’ Rights Agreement dated June 2, 2004	Entire Document	The parties in <i>Finjan, Inc. v. Cisco Systems, Inc., No. 5:17-cv-00072-BLF-SVK</i> designated this document as “Highly Confidential – Attorneys’ Eyes Only” pursuant to the Stipulated Protective Order. See Forte Declaration, ¶¶ 2-4.

1 2 3 4 5 6	Ex. 3	Cisco – Finjan Holdings, Inc. Mutual Non-Disclosure Agreement dated March 21, 2014	Entire Document	The parties in <i>Finjan, Inc. v. Cisco Systems, Inc., No. 5:17-cv-00072-BLF-SVK</i> designated this document as “Highly Confidential – Attorneys’ Eyes Only” pursuant to the Stipulated Protective Order. <i>See</i> Forte Declaration, ¶¶ 2-4.
7 8 9 10 11 12	Ex. 4	Excerpts from the February 1, 2019 Deposition of Yoav Samet	Entire Document	The parties in <i>Finjan, Inc. v. Cisco Systems, Inc., No. 5:17-cv-00072-BLF-SVK</i> designated this document as “Highly Confidential – Attorneys’ Eyes Only” pursuant to the Stipulated Protective Order. <i>See</i> Forte Declaration, ¶¶ 2-4.
13 14 15 16 17 18	Ex. 5	Excerpts from the April 10, 2019 Deposition of Daniel Chinn	Entire Document	The parties in <i>Finjan, Inc. v. Cisco Systems, Inc., No. 5:17-cv-00072-BLF-SVK</i> designated this document as “Highly Confidential – Attorneys’ Eyes Only” pursuant to the Stipulated Protective Order. <i>See</i> Forte Declaration, ¶¶ 2-4.
19 20 21 22 23 24	Ex. 6	Exhibit 34 to the April 10, 2019 deposition of Daniel Chinn	Entire Document	The parties in <i>Finjan, Inc. v. Cisco Systems, Inc., No. 5:17-cv-00072-BLF-SVK</i> designated this document as “Highly Confidential – Attorneys’ Eyes Only” pursuant to the Stipulated Protective Order. <i>See</i> Forte Declaration, ¶¶ 2-4.

## II. ARGUMENT

### A. Legal Standard

There is a presumption of public access to judicial records and documents. *Nixon v. Warner*

1 *Commc'ns, Inc.*, 435 U.S. 589, 597 (1978). However, records attached to non-dispositive motions,  
2 such is the case here, are not subject to the strong presumption of access. *Finjan, Inc. v. Proofpoint,*  
3 *Inc.*, No. 13-CV-05808-HSG, 2015 WL 9023164, at \*1 (N.D. Cal. Dec. 16, 2015) (internal citation  
4 omitted). Because the documents attached to non-dispositive motions “are often unrelated, or only  
5 tangentially related, to the underlying cause of action,” parties moving to seal must meet the lower  
6 “good cause” standard of the Federal Rules of Civil Procedure Rule 26(c). *Id.* (internal quotation  
7 marks omitted). The “good cause” standard requires a “particularized showing” that “specific  
8 prejudice or harm will result” if the information is disclosed. *Phillips ex rel. Estates of Byrd v. Gen.*  
9 *Motors Corp.*, 307 F.3d 1206, 1210-11 (9th Cir. 2002) (internal quotation marks omitted); *see* Fed.  
10 R. Civ. P. 26(c). “Broad allegations of harm, unsubstantiated by specific examples of articulated  
11 reasoning” will not suffice. *Beckman Indus., Inc. v. Int'l Ins. Co.*, 966 F.2d 470, 476 (9th Cir. 1992).

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

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

18 SonicWall seeks to seal Exhibits 1-6 to the Declaration of Matthew Gaudet Pursuant to  
19 Interim Order Re: April 17, 2020 Joint Discovery Letter Brief at Dkt. 255 (“Gaudet Declaration”) because the parties in *Finjan, Inc. v. Cisco Systems, Inc.*, No. 5:17-cv-00072-BLF-SVK designated  
20 these documents as “Highly Confidential – Attorneys’ Eyes Only” pursuant to the Stipulated  
21 Protective Order.  
22

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

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

7 **III. CONCLUSION**

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

10 Dated: May 4, 2020

Respectfully submitted,

11 */s/ Nicole E. Grigg*

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