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FINJAN LLC

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
(SAN JOSE DIVISION)

18 FINJAN LLC, a Delaware Limited Liability
19 Company,

20 Plaintiff,

21 | v.

22 | SONICWALL INC., a Delaware Corporation.

23 || Defendant.

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

**PLAINTIFF FINJAN LLC'S
OPPOSITION TO DEFENDANT
SONICWALL INC.'S MOTION FOR
PARTIAL SUMMARY JUDGMENT**

Date: January 14, 2021

Time: 9:00 AM

Judge: Hon. Beth Labson Freeman

Dept: Courtroom 3, Fifth Floor

26 | REDACTED VERSION OF DOCUMENT SOUGHT TO BE SEALED

TABLE OF CONTENTS

I.	INFRINGEMENT OF THE '154 PATENT	1
A.	Application of the Claims to URL Rewrite	2
B.	Remote Creation of the First Function	4
II.	INFRINGEMENT OF THE '844, '494, AND '926 PATENTS BASED ON CAPTURE ATP IN COMBINATION WITH ESA	4
III.	SONICWALL GATEWAYS "RECEIVE" DOWNLOADABLES	6
IV.	INFRINGEMENT OF THE '633 AND '822 PATENTS	9
V.	INFRINGEMENT OF THE '305 AND '408 PATENTS BASED ON CAPTURE ATP IN COMBINATION WITH GATEWAYS AND ESA	9
VI.	INFRINGEMENT OF THE '926 PATENT	11
A.	Capture ATP Sends Downloadable Files to Destination Computers	12
B.	Capture ATP also Sends Representations of Security Profile Data	13
C.	Capture ATP Sends Information Using Transport Protocols and a Transmitter Coupled to a Receiver	14
D.	Doctrine of Equivalents	15
VII.	INFRINGEMENT OF THE '305 PATENT	15
A.	Factual Disputes Exist Regarding the '305 Patent	15
VIII.	THE COURT SHOULD DENY SONICWALL'S MOTION AS TO DAMAGES	18
A.	Ample Evidence Supports a Royalty on Overseas Business Because the Business Arose from Domestic Infringement	18
B.	There Is More Than Enough Evidence to Establish Actual Notice of Finjan's Patents on the Dates Cited in Finjan's Expert Reports.....	21
1.	The Evidence Demonstrates Actual Notice as to the '822, '968, '780, and '844 Patents	21
2.	The Evidence Further Demonstrates Actual Notice as to the '926 Patent During the 2014–2017 Licensing Discussions	25

TABLE OF AUTHORITIES

		Page(s)
1		
2		
3	Cases	
4	<i>01 Communique Lab., Inc. v. LogMeIn, Inc.</i> , 687 F.3d 1292 (Fed. Cir. 2012).....	11
5		
6	<i>AFG Industries, Inc. v. Cardinal IG Co., Inc.</i> , 375 F.3d 1367 (Fed. Cir. 2004).....	12, 17, 18
7		
8	<i>Amsted Indus. Inc. v. Buckeye Steel Castings Co.</i> , 24 F.3d 178 (Fed. Cir. 1994).....	22, 24
9		
10	<i>Apple, Inc. v. Samsung Elecs. Co.</i> , No. 12-CV-00630-LHK, 2014 WL 252045 (N.D. Cal. Jan. 21, 2014).....	10
11		
12	<i>Armstrong v. Motorola, Inc.</i> , 374 F.2d 764 (7th Cir. 1967).....	22
13		
14	<i>Baldwin Graphic Sys. v. Siebert</i> , 512 F.3d 1338 (Fed. Cir. 2008).....	9, 10
15		
16	<i>Bettcher Indus., Inc. v. Bunzl USA, Inc.</i> , 661 F.3d 629 (Fed. Cir. 2011).....	9
17		
18	<i>CNET Networks, Inc. v. Etilize, Inc.</i> , 528 F. Supp. 2d 985 (N.D. Cal. 2007).....	21
19		
20	<i>Convolve v. Compaq Comp. Corp.</i> , 812 F.3d 1313 (Fed. Cir. 2016).....	9
21		
22	<i>Depuy Spine, Inc. v. Medtronic Sofamor Danek, Inc.</i> , 469 F.3d 1005 (Fed. Cir. 2006).....	18
23		
24	<i>Dunlap v. Schofield</i> , 152 U.S. 244.....	22
25		
26	<i>Finjan, Inc. v. Secure Computing Corp.</i> , 626 F.3d 1197 (Fed. Cir. 2010).....	21
27		
28	<i>Free Motion Fitness, Inc. v. Cybex Int'l</i> , 423 F.3d 1343 (Fed. Cir. 2005).....	10
	<i>Funai Elec. Co. v. Daewoo Elecs. Corp.</i> , 616 F.3d 1357 (Fed. Cir. 2010).....	23
	<i>Good Tech. Corp. v. MobileIron, Inc.</i> , No. 5:12-CV-05826-PSG, 2015 WL 4040416 (N.D. Cal. July 1, 2015).....	1, 8

1	<i>Interactive Pictures Corp. v. Infinite Pictures, Inc.</i> , 274 F.3d 1371 (Fed. Cir. 2001)	15
2		
3	<i>Iron Oaks Techs. LLC v. Fujitsu Am., Inc.</i> , No. 3:18-md-2835, 2018 WL 6593709 (N.D. Tex. Dec. 14, 2018)	23
4		
5	<i>Netlist v. Smart Storage Sys.</i> , No. 13-5889, 2014 WL 1320325 (N.D. Cal. Apr. 1, 2014)	5
6		
7	<i>Paragon Solutions, LLC v. Timex Corp.</i> , 566 F.3d 1075 (Fed. Cir. May 22, 2009)	9
8		
9	<i>Power Mosfet Techs., L.L.C. v. Siemens AG</i> , 378 F.3d 1396 (Fed. Cir. 2004)	1, 16
10		
11	<i>R.R. Dynamics, Inc. v. A. Stucki Co.</i> , 727 F.2d 1506.....	19, 20
12		
13	<i>Rates Tech. v. Mediatrix Telecom</i> , 688 F.3d 742 (Fed. Cir. 2012).....	4
14		
15	<i>SIMO Holdings Inc. v. Hong Kong uCloudlink Network Tech. Ltd.</i> , 376 F. Supp. 3d 369 (S.D.N.Y. 2019)	23
16		
17	<i>SRI Int'l, Inc. v. Advanced Tech. Labs., Inc.</i> , 127 F.3d 1462 (Fed. Cir. 1997).....	21, 22
18		
19	<i>Symantec v. Comput. Assocs. Int'l</i> , 522 F.3d 1279 (Fed. Cir. 2008)	9, 10
20		
21	<i>TecSec, Inc. v. IBM</i> , 731 F.3d 1336 (Fed. Cir. 2013)	4
22		
23	<i>Tyco Healthcare Grp. LP v. Biolitec, Inc.</i> , No. C-08-3129 MMC (N.D. Cal. Aug. 11, 2010)	3
24		
25	<i>Unwired Planet L.L.C. v. Google, Inc.</i> , 660 Fed. Appx. 974 (Fed. Cir. Nov. 21, 2016)	10, 11
26		
27	<i>WesternGeco LLC v. ION Geophysical Corp.</i> , 138 S. Ct. 2129 (2018).....	20
28		
26	Statutes	
27	35 U.S.C. § 271(a).....	5
28		

1 **Other Authorities**

2 7 Chisum on Patents § 20.03[7][c][iv] (2020 ed.)..... 22

3

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