

DUANE MORRIS LLP
D. Stuart Bartow (CA SBN 233107)
dsbartow@duanemorris.com
Nicole E. Grigg (CA SBN 307733)
negrigg@duanemorris.com
2475 Hanover Street
Palo Alto, CA 94304-1194
Telephone: 650.847.4150
Facsimile: 650.847.4151

DUANE MORRIS LLP
Joseph A. Powers (PA SBN 84590)
Admitted *Pro Hac Vice*
japowers@duanemorris.com
Jarrad M. Gunther (PA SBN 207038)
Admitted *Pro Hac Vice*
jmgunther@duanemorris.com
30 South 17th Street
Philadelphia, PA 19103
Telephone: 215.979.1000
Facsimile: 215.979.1020

Attorneys for Defendant
SONICWALL INC.

DUANE MORRIS LLP
Matthew C. Gaudet (GA SBN 287789)
Admitted *Pro Hac Vice*
mcgaudet@duanemorris.com
Robin L. McGrath (GA SBN 493115)
Admitted *Pro Hac Vice*
rlmcgrath@duanemorris.com
David C. Dotson (GA SBN 138040)
Admitted *Pro Hac Vice*
dcdotson@duanemorris.com
Jennifer H. Forte (GA SBN 940650)
Admitted *Pro Hac Vice*
jhforte@duanemorris.com
1075 Peachtree NE, Suite 2000
Atlanta, GA 30309
Telephone: 404.253.6900
Facsimile: 404.253.6901

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

FINJAN, LLC, A Delaware Limited Liability
Company,

Plaintiff,

v.

SONICWALL INC., a Delaware Corporation,

Defendant.

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

**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) and Federal Rule of Civil Procedure 26(b)(5)(B),
 4 Defendant SonicWall Inc. ("SonicWall") hereby moves the Court for leave to file under seal,
 5 pursuant to Civil L.R. 79-5(d)-(e), the items identified in the table below:

Exh. No.	Document	Portion(s) to Seal	Reason(s) for Sealing
	Defendant SonicWall, Inc's Reply in Support of its Motion for Partial Summary Judgment	Highlighted portions at: Page 2: lines 3-4; Page 3: lines 3-4; Page 9: lines 15-21, 24-26; Page 10: lines 21, 23, 25-28; Page 11: lines 1-3, 5-17; Page 12: lines 1-3	The highlighted portions of this document reflect information that SonicWall has designated as "Highly Confidential – Attorneys' Eyes Only" or "Highly Confidential – Attorney's Eyes Only – Source Code" pursuant to the Stipulated Protective Order. If filed publicly, this confidential information could be used to SonicWall's disadvantage by competitors as it concerns the identification, organization, and or operation of SonicWall's proprietary products. <i>See</i> Declaration of Nicole E. Grigg in Support of Administrative Motion to File Documents Under Seal ("Grigg Declaration"), ¶¶ 2-5.
41 to Gunther Declaration	Excerpts from the July 14, 2020 John Gordineer Deposition Transcript	Entirety	This document contains testimony that SonicWall has designated as "Highly Confidential – Attorneys' Eyes Only" or "Highly Confidential – Attorneys' Eyes Only - Source Code" pursuant to the Stipulated Protective Order. If filed publicly, this confidential information could be used to SonicWall's disadvantage by competitors as it concerns the identification, organization, and or operation of SonicWall's proprietary products, including its source code. <i>See</i> Grigg Declaration, ¶¶ 2-5.
42 to	Excerpts from the July	Entirety	This document contains testimony

Exh. No.	Document	Portion(s) to Seal	Reason(s) for Sealing
Gunther Declaration	21, 2020 Eric Hawkes Deposition Transcript		that SonicWall has designated as “Highly Confidential – Attorneys’ Eyes Only” or “Highly Confidential – Attorneys’ Eyes Only - Source Code” pursuant to the Stipulated Protective Order. If filed publicly, this confidential information could be used to SonicWall’s disadvantage by competitors as it concerns the identification, organization, and or operation of SonicWall’s proprietary products, including its source code. <i>See</i> Grigg Declaration, ¶¶ 2-5.
43 to Gunther Declaration	Excerpts from the July 24, 2020 Michael King Deposition Transcript	Entirety	This document contains testimony that SonicWall has designated as “Highly Confidential – Attorneys’ Eyes Only” or “Highly Confidential – Attorneys’ Eyes Only - Source Code” pursuant to the Stipulated Protective Order. If filed publicly, this confidential information could be used to SonicWall’s disadvantage by competitors as it concerns the identification, organization, and or operation of SonicWall’s proprietary products, including its source code. <i>See</i> Grigg Declaration, ¶¶ 2-5.
44 to Gunther Declaration	Excerpts from the October 22, 2020 Dr. Eric Cole Deposition Transcript	Entirety	This document contains testimony that SonicWall has designated as “Highly Confidential – Attorneys’ Eyes Only” or “Highly Confidential – Attorneys’ Eyes Only - Source Code” pursuant to the Stipulated Protective Order. If filed publicly, this confidential information could be used to SonicWall’s disadvantage by competitors as it concerns the identification, organization, and or operation of SonicWall’s

Exh. No.	Document	Portion(s) to Seal	Reason(s) for Sealing
			proprietary products, including its source code. <i>See</i> Grigg Declaration, ¶¶ 2-5.
45 to Gunther Declaration	Finjan’s notice of inadvertently produced documents bearing Bates numbers Finjan-SW 047873-76 and privilege log dated July 24, 2018	Entirety	This document contains information that Finjan has designated as “Highly Confidential – Attorneys’ Eyes Only” pursuant to the Stipulated Protective Order. <i>See</i> Grigg Declaration, ¶¶ 2-5.
46 to Gunther Declaration	SonicWall’s Comprehensive Gateway Security Suite datasheet bearing Bates Nos. SonicWall-Finjan 00454707-709	Entirety	SonicWall has designated this internal datasheet “Highly Confidential – Attorneys’ Eyes Only” pursuant to the Stipulated Protective Order. If filed publicly, this confidential information could be used to SonicWall’s disadvantage by competitors as it concerns the identification, organization, and or operation of SonicWall’s proprietary products. <i>See</i> Grigg Declaration, ¶¶ 2-5.
47 to Gunther Declaration	SonicWall’s WAN Acceleration Appliance (WXA) Series datasheet bearing Bates Nos. SonicWall-Finjan 00017623-627	Entirety	SonicWall has designated this internal datasheet “Highly Confidential – Attorneys’ Eyes Only” pursuant to the Stipulated Protective Order. If filed publicly, this confidential information could be used to SonicWall’s disadvantage by competitors as it concerns the identification, organization, and or operation of SonicWall’s proprietary products. <i>See</i> Grigg Declaration, ¶¶ 2-5.

II. ARGUMENT

A. Legal Standard

There is a presumption of public access to judicial records and documents. *Nixon v. Warner Commc'ns, Inc.*, 435 U.S. 589, 597 (1978). However, records attached to non-dispositive motions,

1 such is the case here, are not subject to the strong presumption of access. *Finjan, Inc. v. Proofpoint,*
2 *Inc.*, No. 13-CV-05808-HSG, 2015 WL 9023164, at *1 (N.D. Cal. Dec. 16, 2015) (internal citation
3 omitted). Because the documents attached to non-dispositive motions “are often unrelated, or only
4 tangentially related, to the underlying cause of action,” parties moving to seal must meet the lower
5 “good cause” standard of the Federal Rules of Civil Procedure Rule 26(c). *Id.* (internal quotation
6 marks omitted). The “good cause” standard requires a “particularized showing” that “specific
7 prejudice or harm will result” if the information is disclosed. *Phillips ex rel. Estates of Byrd v. Gen.*
8 *Motors Corp.*, 307 F.3d 1206, 1210-11 (9th Cir. 2002) (internal quotation marks omitted); see Fed.
9 R. Civ. P. 26(c). “Broad allegations of harm, unsubstantiated by specific examples of articulated
10 reasoning” will not suffice. *Beckman Indus., Inc. v. Int’l Ins. Co.*, 966 F.2d 470, 476 (9th Cir. 1992).
11 Sealing is appropriate where the requesting party “establishes that the document, or portions thereof
12 is privileged or protectable as a trade secret or otherwise entitled to protection under the law.” N.D.
13 Cal. Civ. L.R. 79–5(a). A party must “narrowly tailor” its request to sealable material only. *Id.*

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

16 As noted in the table above, SonicWall seeks to seal select portions of its Reply in Support
17 of its Motion for Partial Summary Judgment (“Reply”) at the pages listed in the table above and
18 Exhibits 2-10 to the Declaration of Jarrad Gunther. SonicWall’s Reply quotes from or references
19 the one or more exhibits that SonicWall is filing under seal which were designated as “HIGHLY
20 CONFIDENTIAL-ATTORNEYS’ EYES ONLY” or “HIGHLY CONFIDENTIAL –
21 ATTORNEY’S EYES ONLY – SOURCE CODE” pursuant to the terms of the Stipulated Protective
22 Order. *See* Declaration of Nicole E. Grigg in Support of Administrative Motion to File Documents
23 Under Seal (“Grigg Declaration”), ¶¶ 2-5. Pursuant to Civil Local Rule 79-5, SonicWall has publicly
24 filed the relevant excerpts of information that are not confidential. Attached hereto are redacted and
25 unredacted versions of SonicWall’s Motion and unredacted versions of the exhibits in support thereof
26 that SonicWall seeks to seal.

27 SonicWall seeks to seal Exhibits 41-44; 46-47 to the Declaration of Jarrad Gunther because
28 they reflect or contain information that SonicWall has designated as “Highly Confidential –

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.