EXHIBIT E

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

- - - - - - - - - - - - - x

FINJAN, INC.,

Plaintiff,

v.

SONICWALL, INC.,

Defendant.

- - - - - - - - - - - - - x

Case No.

5:17-cv-04467-BLF-VKD

Videotaped Deposition of

KEVIN ALMEROTH, Ph.D.

Conducted Virtually

Tuesday, October 20, 2020

8:06 a.m.

Job No.: 329529

Pages: 1 - 121

CERTIFIED SHORTHAND REPORTER:

Tracy M. Fox, CSR #10449

(COURT APPROVED COURT REPORTER)

A. Yes, sir, I have. 09:27:18

VIDEO TECHNICIAN: Stand by. 09:27:21

(Technician complied.) 09:27:26

(Whereupon, Defendant's Exhibit 5 was marked for identification.) 09:27:26

COURT STENOGRAPHER: Exhibit 5 marked for identification. 09:27:31

BY MR. WOLFF: 09:27:32

Q. I don't know what you have, but I'm sure it's the same as what she -- she's loading up as Exhibit 5. 09:27:36

A. Yes, I'm generally pretty careful to make sure that the -- the pdf that I print is the -- the served version of the report. 09:27:43

Q. Do you want to double-check Exhibit 5 and confirm that is a copy of your report? 09:27:56

A. Yes. Let me download it. 09:28:01

VIDEO TECHNICIAN: Sharing Exhibit 5. 09:28:07

(Document reviewed by the witness.) 09:28:25

THE WITNESS: Yes, they're -- they're the same. 09:28:25

But just so that it's clear, I didn't print out my CV and the materials considered in the -- the printed version. 09:28:27

/ / / 09:28:36

BY MR. WOLFF: 09:28:36
Q. No worries. No worries. 09:28:36
I'm -- I'm going to mostly stay away from 09:28:39
that. Got it. 09:28:41
So what I want to do is direct your 09:28:48
attention to page 274 of Exhibit 5. 09:28:49
(Technician complied.) 09:29:04
THE WITNESS: Okay. 09:29:04
BY MR. WOLFF: 09:29:04
Q. And is it fair that for Claim 1 of the '154 09:29:04
patent you give two grounds for why it's your opinion 09:29:10
that the written-description requirement has not been 09:29:15
satisfied; is that right? 09:29:20
A. I believe that is correct, yes. 09:29:23
Q. Okay. And in each of those sections, you 09:29:26
conclude with a statement -- and I'll direct you to 09:29:34
it -- about the scope of the claims. 09:29:42
If you could turn to paragraph 662. 09:29:48
(Technician complied.) 09:29:53
THE WITNESS: Yes, I'm there. 09:29:53
BY MR. WOLFF: 09:29:54
Q. Okay. Now, is this a conditional 09:29:54
written-description argument? 09:29:57
Is that fair? 09:30:00
(Document reviewed by the witness.) 09:30:10

THE WITNESS: I -- I think it's conditional in the context of what's set forth in 662, yes. 09:30:10 09:30:11

BY MR. WOLFF: 09:30:14

Q. And that is your opinion on 112, that if the claims covered the accused -- missed limitation in the accused products, then they failed the written-description requirement; correct? 09:30:14 09:30:19 09:30:22 09:30:27

A. Could you repeat -- 09:30:30

MR. DOTSON: Object to the form. 09:30:31

THE WITNESS: Could you repeat the question? 09:30:31 09:30:32

MR. WOLFF: Could you read back the question, please -- strike that. 09:30:34 09:30:35

I'll just ask the question again now that it's been cleared up. 09:31:16 09:31:17

Is it fair that your position on whether this limitation satisfies the written-description requirement is conditional on whether the particular limitation you're analyzing covers the accused product? 09:31:19 09:31:20 09:31:22 09:31:27 09:31:32

MR. DOTSON: Object to the form. 09:31:32

THE WITNESS: I -- I think if the claims are interpreted to be broad enough to cover the accused products, then they would be invalid for failing to meet the written-description 09:31:49 09:31:50 09:31:53 09:31:56

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