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13 FINJAN LLC

14 UNITED STATES DISTRICT COURT  
15 NORTHERN DISTRICT OF CALIFORNIA  
16 (SAN JOSE DIVISION)  
17

18 FINJAN LLC, a Delaware Limited Liability  
19 Company,

20 Plaintiff,

21 v.

22 SONICWALL INC., a Delaware Corporation,

23 Defendant.  
24

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

**PLAINTIFF FINJAN LLC'S MOTION TO  
PRECLUDE TRIAL TESTIMONY FROM  
STEPHEN BECKER, PH.D.**

Date: June 24, 2021

Time: 9:00 a.m.

Judge: Hon. Beth Labson Freeman

Dept: Courtroom 3, Fifth Floor  
25

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1 **I. NOTICE OF MOTION**

2 **NOTICE IS HEREBY GIVEN** that on June 24, 2021, at 9:00 a.m. or as soon as counsel  
3 may be heard by the Honorable Beth Labson Freeman, Plaintiff Finjan, LLC will and hereby does  
4 move for an order precluding certain testimony from Stephen Becker, Ph.D.

5 **II. STATEMENT OF RELIEF BEING SOUGHT AND THE ISSUE TO BE DECIDED**

6 Finjan seeks an order precluding Dr. Becker from presenting at trial any computation of  
7 damages for this case. The issue to be decided is whether Dr. Becker's damages model comports  
8 with controlling law requiring that an infringement award must include redress for infringement  
9 during the damages period, and must not include redress for acts outside the damages period.

10 **III. STATEMENT OF THE RELEVANT FACTS**

11 **A. Nature and Stage of the Case**

12 This is a patent case. Plaintiff Finjan LLC accuses Defendant SonicWall Inc. with  
13 infringing eight Finjan patents. Discovery in this case closed in September 2020, and the Court  
14 has scheduled trial to begin on May 3, 2021.

15 **B. The Damages Period for Each Asserted Patent Begins No Earlier Than**  
16 **September 2014, and Ends as Late as December 2025**

17 At trial, Finjan plans to present the damages opinions of economist DeForest McDuff,  
18 Ph.D. In September 2020 Finjan served a report by Dr. McDuff, containing his opinions. *See*  
19 *generally* Exh. D.<sup>1</sup> The McDuff Report included, among other things, recitations of the  
20 "appropriate damages start date" and "end date" for each asserted patent, as follows:

Patent No.	Start of Damages	End of Damages
USPN 6,804,780 ("the '780 patent")	September 2014	November 6, 2017
USPN 6,154,844 ("the '844 patent")	November 25, 2014	January 29, 2017
USPN 8,677,494 ("the '494 patent")	June 2016	January 29, 2017
USPN 7,613,926 ("the '926 patent")	June 10, 2014	January 29, 2017

26  
27 <sup>1</sup> Exhibits ("Exh") are attached to the Declaration of Robert Courtney in support of Finjan, LLC's  
28

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