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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

FINJAN, LLC, a Delaware Limited Liability
Company,

Plaintiff,

vs.

SONICWALL INC., a Delaware
Corporation

Defendant.

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

**DECLARATION OF JARRAD M.
GUNTHER IN SUPPORT OF
DEFENDANT SONICWALL INC.'S
MOTIONS IN LIMINE NOS. 1-5**

1 I, Jarrad M. Gunther, declare as follows:

2 1. I am an attorney at the law firm of Duane Morris LLP and am counsel for Defendant
3 SonicWall Inc. (“SonicWall”). I have personal knowledge of the matters set forth in this
4 Declaration, and if called as a witness, could and would testify competently to such facts under oath.
5 I submit this Declaration in support of SonicWall’s Motions in Limine Nos. 1-5. In making this
6 Declaration, it is not my intention, nor the intention of SonicWall, to waive the attorney-client
7 privilege, the attorney work-product immunity, or any other applicable privilege.

8 2. Attached as **Exhibit 1** is a true and correct copy of excerpts from the September 4,
9 2020 Expert Report of DeForest McDuff, Ph.D.

10 3. Attached as **Exhibit 2** is a true and correct copy of the April 17, 2020 Order on
11 *Daubert* Motions [Re: ECF 421, 423, 425, 427, 429, 431], in the case styled, *Finjan, Inc. v. Cisco*
12 *Systems, Inc.*, Case No. 17-cv-00072-BLF (N.D. Cal.), Dkt. No. 555 (filed April 21, 2020).

13 4. Attached as **Exhibit 3** is a true and correct copy of excerpts from the September 3,
14 2020 Expert Report of Dr. Eric Cole Regarding Technology Tutorial and Infringement by
15 SonicWall, Inc. of Patent Nos. 6,154,844; 7,058,822; 7,647,633; and 8,677,494.

16 5. Attached as **Exhibit 4** is a true and correct copy of excerpts from the September 3,
17 2020 Expert Report of Michael Mitzenmacher, Ph.D. Regarding Infringement by SonicWall, Inc. of
18 Patent Nos. 6,804,780; 6,965,968; and 7,613,926.

19 6. Attached as **Exhibit 5** is a true and correct copy of excerpts from the September 3, 2020
20 Expert Report of Dr. Nenad Medvidović Regarding Infringement by SonicWall, Inc. of Patent Nos.
21 8,225,408; 7,975,305; and 8,141,154.

22 7. Attached as **Exhibit 6** is a true and correct copy of excerpts from the September 3,
23 2020 Expert Report of Dr. Aaron Striegel.

24 8. Attached as **Exhibit 7** is a true and correct copy of excerpts from the transcript of the
25 October 22, 2020 deposition of Eric B. Cole, Ph.D.

26 9. Attached as **Exhibit 8** is a true and correct copy of excerpts from the transcript of the
27 October 26, 2020 deposition of Michael Mitzenmacher, Ph.D.

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1 10. Attached as **Exhibit 9** is a true and correct copy of excerpts from the transcript of the
2 November 3, 2020 deposition of Aaron Striegel, Ph.D.

3 11. Attached as **Exhibit 10** is a true and correct copy of excerpts from the transcript of
4 the November 2, 2020 deposition of DeForest McDuff, Ph.D.

5 12. Attached as **Exhibit 11** is a true and correct copy of the November 30, 2020 Juniper
6 Networks, Inc.'s Motion for Attorneys' Fees Pursuant to 35 U.S.C § 285, in the case styled, *Finjan,*
7 *Inc. v. Juniper Networks, Inc.*, Case No. 3:17-cv-5659-WHA (N.D. Cal.), Dkt. 634.

8 13. Attached as **Exhibit 12** is a true correct copy of the January 9, 2021 Order RE
9 Request for Attorney Fees, in the case styled, *Finjan, Inc. v. Juniper Networks, Inc.*, Case No. 3:17-
10 cv-5659-WHA (N.D. Cal.), Dkt. 648

11 14. Attached as **Exhibit 13** is a true correct copy of excerpts of a Marker Advisors, LLC
12 document marked as McDuff Deposition Ex. No. 5.

13 15. Attached as **Exhibit 14** is a true correct copy of an email dated February 28, 2017
14 marked as McDuff Deposition Ex. No. 10.

15 16. Attached as **Exhibit 15** is a true and correct copy of the May 22, 2020 Order on
16 Motions *in Limine* [Re: ECF 527; 528; 539; 531; 534; 535; 536; 537], in the case styled, *Finjan, Inc.*
17 *v. Cisco Systems, Inc.*, Case No. 17-cv-00072-BLF (N.D. Cal.), Dkt. No. 660 (filed June 5, 2020).

18 17. Attached as **Exhibit 16** is a true and correct copy of the October 18, 2017 Order
19 Regarding Motions *in Limine* [Re: ECF 290-299], in the case styled, *Finjan, Inc. v. Blue Coat*
20 *Systems, LLC*, No. 15-cv-03295 (N.D. Cal.), Dkt. 404 (filed November 4, 2017).

21 18. Attached as **Exhibit 17** is a true correct copy of an email dated January 16, 2014,
22 bearing Bates numbers FINJAN-SW 403755 - FINJAN-SW 403759.

23 19. Attached as **Exhibit 18** is a true correct copy of the February 6, 2018 Joint Statement
24 Regarding Dispute Regarding Additional Deposition Time of Dr. Christine Meyer, in the case styled,
25 *Finjan, Inc. v. Symantec Corp. et al.*, No. 4:14-cv-02998-HSG (JSC) (N.D. Cal.), Dkt. 361.

26 20. Attached as **Exhibit 19** is a true correct copy of a chart marked as Striegel Deposition
27 Ex. No. 8.

28

1 21. Attached as **Exhibit 20** is a true correct copy of excerpts of the SonicWall
2 SonicWave and SonicPoint Series Wireless Access Points datasheet, bearing Bates numbers
3 SonicWall-Finjan_00365304 - SonicWall-Finjan_00365305 and SonicWall-Finjan_00365316 -
4 SonicWall-Finjan_00365317, marked as Striegel Deposition Ex. No. 12.

5 22. Attached as **Exhibit 21** is a true correct copy of the SonicWall SuperMassive Series
6 data sheet, bearing Bates numbers SonicWall-Finjan_00000655 - SonicWall-Finjan_00000666,
7 marked as Striegel Deposition Ex. No. 6.

8 23. Attached as **Exhibit 22** is a true correct copy of an Agreement for VirusTotal
9 Services, bearing Bates numbers SonicWall-Finjan_00101991 - SonicWall-Finjan_00101996,
10 marked as Striegel Deposition Ex. No. 2.

11 24. Attached as **Exhibit 23** is a true correct copy of an Agreement for VirusTotal
12 Services, bearing Bates numbers FINJAN-SW 158696 - FINJAN-SW 158701, Striegel Deposition
13 Ex. No. 3.

14 25. Attached as **Exhibit 24** is a true correct copy of an email dated January 8, 2017,
15 bearing Bates numbers FINJAN-SW 403972 - FINJAN-SW 403979.

16 26. Attached as **Exhibit 25** is a true and correct copy of excerpts from the transcript of
17 the February 27, 2020 deposition of Julie Mar-Spinola.

18 27. Attached as **Exhibit 26** is a true and correct copy of the September 7, 2016 Transcript
19 of Proceedings, in the case styled, *Finjan, Inc. v. Sophos, Inc.*, Case No. C 14-1197 WHO (N.D.
20 Cal.), bearing Bates numbers FINJAN-SW 158070 - FINJAN-SW 158104

21 28. Attached as **Exhibit 27** is a true correct copy of the 2018 SonicWall Cyber Threat
22 Report, bearing Bates numbers FINJAN-SW 433167 – FINJAN-SW 433191, marked as McDuff
23 Deposition Ex. No. 4.

24 29. Attached as **Exhibit 28** is a true and correct copy of excerpts from the October 9,
25 2020 Expert Report of Stephen L. Becker, Ph.D. on Behalf of Defendant.

26 30. Attached as **Exhibit 29** is a true and correct copy of excerpts from the January 9,
27 2020 Transcript of Proceedings, in the case styled, *Finjan, Inc. v. Cisco Systems, Inc.*, Case No.
28 5:17-cv-00072-BLF (N.D. Cal.).

1 31. Attached as **Exhibit 30** is a true and correct copy of the Ex Parte Reexamination
2 Certificate for U.S. Patent No. 7,975,305 that issued from Reexamination Control No. 90/013,660.

3 32. Attached as **Exhibit 31** is a true and correct copy of the September 6, 2019 Judgment
4 from the U.S. Court of Appeals for the Federal Circuit, *In Re: Finjan, Inc.*, 2018-2354.

5 33. Attached as **Exhibit 32** is a true and correct copy of excerpts from the Request for Ex
6 Parte Reexamination of U.S. Patent No. 7,975,305 from Reexamination Control No. 90/014,477.

7 34. Attached as **Exhibit 33** is a true and correct copy of excerpts from the Request for Ex
8 Parte Reexamination of U.S. Patent No. 7,975,305 from Reexamination Control No. 90/013,660.

9 35. Attached as **Exhibit 34** is a true and correct copy of the Notice of Intent to Issue Ex
10 Parte Reexamination Certificate dated February 4, 2021 from Reexamination Control No.
11 90/014,477.

12 Executed on March 4, 2021, in Haverford, Pennsylvania.

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14 */s/ Jarrad M. Gunther*
15 Jarrad M. Gunther
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