

EXHIBIT 5

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN JOSE DIVISION

4 - - - - - x
5 FINJAN, INC., :
6 Plaintiff, :
7 v. : Case No.
8 SONICWALL, INC., : 5:17-cv-04467-BLF-VKD
9 Defendant. :
10 - - - - - x

11
12 Videotaped Deposition of
13 KEVIN ALMEROOTH, Ph.D.
14 Conducted Virtually
15 Tuesday, October 20, 2020
16 8:06 a.m.

17
18
19
20
21 Job No.: 329529
22 Pages: 1 - 121
23 CERTIFIED SHORTHAND REPORTER:
24 Tracy M. Fox, CSR #10449
25 (COURT APPROVED COURT REPORTER)

Transcript of Kevin Almeroth, Ph.D.
Conducted on October 20, 2020

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1	A. Yes, sir, I have.	09:27:18
2	VIDEO TECHNICIAN: Stand by.	09:27:21
3	(Technician complied.)	09:27:26
4	(Whereupon, Defendant's Exhibit 5 was	09:27:26
5	marked for identification.)	09:27:26
6	COURT STENOGRAPHER: Exhibit 5 marked for	09:27:31
7	identification.	09:27:32
8	BY MR. WOLFF:	09:27:36
9	Q. I don't know what you have, but I'm sure	09:27:36
10	it's the same as what she -- she's loading up as	09:27:38
11	Exhibit 5.	09:27:41
12	A. Yes, I'm generally pretty careful to make	09:27:43
13	sure that the -- the pdf that I print is the -- the	09:27:46
14	served version of the report.	09:27:50
15	Q. Do you want to double-check Exhibit 5 and	09:27:56
16	confirm that is a copy of your report?	09:27:59
17	A. Yes. Let me download it.	09:28:01
18	VIDEO TECHNICIAN: Sharing Exhibit 5.	09:28:07
19	(Document reviewed by the witness.)	09:28:25
20	THE WITNESS: Yes, they're -- they're the	09:28:25
21	same.	09:28:27
22	But just so that it's clear, I didn't print	09:28:27
23	out my CV and the materials considered in the -- the	09:28:30
24	printed version.	09:28:33
25	/ / /	09:28:36

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

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1	THE WITNESS: I -- I think it's conditional	09:30:10
2	in the context of what's set forth in 662, yes.	09:30:11
3	BY MR. WOLFF:	09:30:14
4	Q. And that is your opinion on 112, that if	09:30:14
5	the claims covered the accused -- missed limitation	09:30:19
6	in the accused products, then they failed the	09:30:22
7	written-description requirement; correct?	09:30:27
8	A. Could you repeat --	09:30:30
9	MR. DOTSON: Object to the form.	09:30:31
10	THE WITNESS: Could you repeat the	09:30:31
11	question?	09:30:32
12	MR. WOLFF: Could you read back the	09:30:34
13	question, please -- strike that.	09:30:35
14	I'll just ask the question again now that	09:31:16
15	it's been cleared up.	09:31:17
16	Is it fair that your position on whether	09:31:19
17	this limitation satisfies the written-description	09:31:20
18	requirement is conditional on whether the particular	09:31:22
19	limitation you're analyzing covers the accused	09:31:27
20	product?	09:31:32
21	MR. DOTSON: Object to the form.	09:31:32
22	THE WITNESS: I -- I think if the claims	09:31:49
23	are interpreted to be broad enough to cover the	09:31:50
24	accused products, then they would be invalid for	09:31:53
25	failing to meet the written-description	09:31:56

PLANET DEPOS

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