

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

FINJAN, INC.,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 18-1519-MN
)	
RAPID7, INC., et al.,)	
)	
Defendants.)	
)	

SPECIAL MASTER ORDER #1

Having conducted a preliminary teleconference with the parties on July 14, 2020 regarding discovery disputes, the Special Master orders as follows:

(1) The Court cited two discovery disputes in its July 2, 2020 Order (D.I. 164). In a supplemental status report (D.I. 168) and on the teleconference with the Special Master, the parties confirmed that Defendants (“Rapid7”) have withdrawn their motion to compel associated with docket entries 135-137 and 152. The Special Master, therefore, will not hold a hearing on that dispute.

(2) A discovery dispute remains as to what the parties have called the “IBM Documents.” *See* D.I. 160-161 and 163. This dispute concerns, among other things, a right of confidentiality asserted by IBM. Because IBM asserts a right of confidentiality, the Special Master believes, and the parties do not seriously dispute, that IBM should be heard on this issue. Accordingly, the Special Master sets the following schedule for resolution of this dispute:

- a. IBM may submit a letter brief of no more than three pages. IBM’s letter brief shall be emailed to the Special Master (chad.stover@btlaw.com) and all counsel

of record no later than 6 p.m. Eastern on July 21, 2020. The letter brief should be emailed only, not filed on the docket.

- b. Rapid7, the movant, may file a reply letter brief of no more than two pages.

Rapid7's letter brief shall be emailed to the Special Master, all counsel of record, and IBM's counsel no later than 6 p.m. Eastern on July 23, 2020. The letter brief should be emailed only, not filed on the docket.

- c. The Special Master will hold a hearing on this matter on July 27, 2020 at 3 p.m.

The hearing shall be held via WebEx videoconference. The Special Master will provide a link to counsel for the videoconference hearing. A court reporter will be present.

- d. Counsel for Finjan, Inc. ("Finjan") shall provide a copy of this order and a copy of the letter briefing on this dispute to IBM's counsel who participated in the meet and confer discussions leading up to this motion. If there are any confidentiality concerns with IBM's access to the letter briefing, counsel shall discuss such concerns and bring any disputes to the Special Master.

- e. Counsel for Finjan shall provide the names and contact information (including email addresses) for IBM's counsel to the Special Master and opposing counsel.

(3) Pursuant to the Order Appointing Special Master (D.I. 167 at ¶ 3a), by 6 p.m. on July 17, 2020, movant Rapid7 shall file a formal motion to compel the IBM Documents on the docket. This motion should be no more than one page. Rapid7 shall attach a proposed order to the motion setting forth the precise relief sought. Rapid7 shall email a copy of this motion and proposed order to opposing counsel, IBM's counsel, and the Special Master.

IT IS SO ORDERED.

Dated: July 15, 2020



Special Master Chad S.C. Stover