

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

FINJAN LLC, a Delaware Limited Liability  
Company,

Plaintiff,

v.

RAPID7, INC., a Delaware Corporation and  
RAPID7 LLC, a Delaware Limited Liability  
Company,

Defendants.

C.A. No. 18-1519-MN

  
REDACTED

**FINJAN LLC'S ANSWERING BRIEF IN OPPOSITION TO DEFENDANTS  
RAPID7, INC. AND RAPID 7 LLC'S MOTION TO EXCLUDE OPINIONS AND  
TESTIMONY OF PLAINTIFF'S EXPERTS, RUSSELL L. PARR, MICHAEL  
MITZENMACHER, NENAD MEDVIDOVIC, ERIC COLE, AND MICHAEL  
GOODRICH**

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## I. NATURE AND STAGE OF THE PROCEEDINGS

This is a patent case. Plaintiff Finjan LLC accuses Defendants Rapid7, Inc. and Rapid7 LLC with infringing seven Finjan patents. Discovery in this case closed on September 24, 2020, and the Court has scheduled a 6-day jury trial to begin on February 22, 2021.

## II. SUMMARY OF ARGUMENT

1. Rapid7's motion to exclude the opinions of Finjan's damages expert, Russell L. Parr, should be denied. While Rapid7 articulates five separate grounds for exclusion, each of those grounds is based on factual disputes between the parties, misstatements of Mr. Parr's opinions, and/or a misapplication of the law. When viewed in their entirety, Mr. Parr's opinions present reasonable royalty evidence that will be helpful to the jury in rendering a damages verdict in this case and avoid the double-counting of damages that Rapid7 seems to fear. Mr. Parr's royalty rates are also well supported by the licenses on which he relies, and the testimony of Finjan's fact witnesses. Similarly, Mr. Parr's apportionment analysis is supported by extensive evidence from Finjan's technical experts, as well as testimony from Finjan witnesses. And the revenue projections he makes underlying his lump-sum royalty are both legally and factually supported, and, in fact, he utilizes the same technique as Rapid7's expert, Dr. Becker, to make those projections. Finally, Rapid7's argument that certain license agreements should be excluded is an improper premature motion *in limine* and should be denied on that ground alone. Even if the Court considers it on its merits, Rapid7's arguments serve as no basis for exclusion. None of Rapid7's arguments have merit, and its motion to exclude Mr. Parr's opinions should be denied.

2. Rapid7's motion to exclude portions of Dr. Mitzenmacher's infringement opinions (regarding U.S. Patent Nos. 8,141,154 ("the '154 Patent") and 7,757,289 ("the '289 Patent")) should be denied because it is based on Rapid7's mere disagreement with

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