Palo Alto Networks, Inc. vs. Finjan, Inc.

IPR No. 2015-01979

finjan®

Petitioner's Burden of Proof

35 U.S.C. 316(e)

- "In an *inter partes* review instituted under this chapter, the petitioner shall have the burden of proving a proposition of unpatentablity by a preponderance of evidence"

Petitioner's Burden of Proof

Petitioner:

- Must prove alleged prior art is prior art under the law.

- Must prove prior art references encourage and lead one skilled in the art to make the invention.

- Must prove hindsight was not used in analysis.

- Must prove there are no secondary considerations that demonstrate non-obviousness.

Summary of Arguments

- Petitioner has not proved that Sirer was publically available.

- Khazan does not teach multiple elements of the '154 Patent.
  Each theory includes numerous holes under scrutiny.

- Petitioner did not sufficiently address secondary considerations.

- 35 U.S.C. 315(e)(1) estoppes Petitioner from maintaining additional IPR challenges.

Petitioner's Failure of Proof

- Sirer **was not** accessible to public.
- Sirer **was not** properly indexed.
    - Sirer was published in a journal, and journal was in alphabetically.
    - Sirer was not indexed according to subject matter
- Location of Sirer proves in library proves it **was not** ac
- **No proof** Sirer was actually accessed.

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