

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PALO ALTO NETWORKS, INC.,
Petitioner,

v.

FINJAN, INC.,
Patent Owner.

Case IPR2016-00151
U.S. Patent No. 8,141,154

**PATENT OWNER'S MOTION FOR ENTRY OF THE DEFAULT
PROTECTIVE ORDER AND TO SEAL PATENT OWNER RESPONSE
AND CERTAIN EXHIBITS UNDER 37 C.F.R. §§ 42.14 AND 42.54**

Pursuant to 37 C.F.R. §§ 42.14 and 42.54, Patent Owner, Finjan, Inc., (“Finjan”) hereby moves for entry of the Default Protective Order and to seal its Patent Owner Response and certain Exhibits (collectively referred to herein as the “Subject Exhibits”) thereto which are identified below:

Filing/Exhibit	Content	Confidential Information
Paper __	Patent Owner Response	Contains highly confidential information regarding internal research and development efforts of a third party.
Exhibit 2007	Email Chain Re: Invention Disclosure	Contains highly confidential information regarding internal research and development efforts of a third party.
Exhibit 2008	Email Chain Re: Filing U.S. Patent Application No. 11/298,475	Contains highly confidential information regarding internal research and development efforts of a third party.
Exhibit 2010	Declaration of Dr. Marc Berger, Ph.D.	Contains highly confidential information regarding internal research and development efforts of a third party.
Exhibit 2011	Declaration of Yuval Ben-Itzhak	Contains highly confidential information regarding internal research and development efforts of a third party.
Exhibit 2035	Declaration of Dr. Nenad Medvidovic	Contains highly confidential information regarding internal research and development efforts of a third party.

I. GOOD CAUSE EXISTS FOR SEALING CERTAIN CONFIDENTIAL INFORMATION

The Board's standards for granting motions to seal are discussed in *Garmin International v. Cuozzo Speed Technologies, LLC*, IPR2012-00001 (Paper 34 at 4-5, Mar. 14, 2013). The standard for granting a motion to seal is "good cause." 37 C.F.R. § 42.54(a). The moving party bears the burden of showing that the relief requested should be granted. 37 C.F.R. § 42.20(c). In particular:

The rules aim to strike a balance between the public's interest in maintaining a complete and understandable file history and the parties' interest in protecting truly sensitive information.

* * *

Confidential Information: The rules identify confidential information in a manner consistent with Federal Rule of Civil Procedure 26(c)(1)(G), which provides for protective orders for trade secret or other confidential research, development, or commercial information.

35 U.S.C. § 316(a)(7); 37 C.F.R. § 42.54; Office Trial and Practice Guide, 77 Fed. Reg. 48756, 48760 (Aug. 14, 2012).

Finjan's Patent Owner Response and the Subject Exhibits contain confidential information requiring that they be designated as "PROTECTIVE ORDER MATERIAL" under Default Protective Order (attached hereto as Exhibit A). The Patent Owner Response and Subject Exhibits each contain highly confidential information of a third party. Specifically, each discuss and reveal

confidential information regarding highly confidential internal information relating to the conception and development of the subject patent including an Invention Disclosure Form by the inventors and first assignee, Finjan Software, Ltd. The confidential information disclosed in each of the Subject Exhibits is outlined in the chart above.

The sealing of the foregoing is of particular importance because the public disclosure of such “truly sensitive information” would impact Finjan Software, Inc.’s, successor entities’ competitive position in the market. In particular, the internal research and development efforts and strategies at Finjan Software, Ltd., would allow competitors to access information that would significantly harm its successor entities competitive position in the marketplace.

Furthermore, and notwithstanding the foregoing, granting this Motion would not prejudice nor impact this underlying proceeding. The public’s interest in accessing the information requiring that the Patent Owner Response and Subject Exhibits be sealed for the purposes of the patentability of the challenged claims is unquestionably outweighed by the prejudicial effect and competitive harm of disclosing the above described confidential business information of third parties.

II. CERTIFICATION OF NON-PUBLICATION

To the best of Finjan's knowledge, the confidential information contained in the Patent Owner Response and the Subject Exhibits has not been made publically available.

III. CERTIFICATION OF CONFERENCE WITH OPPOSING PARTY PURSUANT TO 37 C.F.R. § 42.54

Finjan, in good faith, met and conferred with Petitioners regarding the scope of the Default Protective Order. Petitioners do not object to the entry of the Default Protective Order.

IV. PROPOSED PROTECTIVE ORDER

Finjan proposes that the Default Protective Order found in Appendix B of the Trial Practice Guide be entered. A copy of the Default Protective Order is concurrently filed herewith and attached hereto as Exhibit A. Petitioners do not object to the entry of the Default Protective Order.

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