

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 REPLY TO PETITIONER'S OPPOSITION TO
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**

Patent Owner Finjan, Inc. ("Finjan") filed its 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 ("Motion"). Paper 20. On September 30, 2016, Petitioner Palo Alto Networks, Inc. ("Petitioner") filed an Opposition to 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 ("Opposition"). Paper 23.

Petitioner's Opposition is based on mischaracterizations of the documents sought to be sealed. The highly sensitive information in its Patent Owner Response and Exhibits 2007 – 2011 and 2035 ("Certain Exhibits") that Finjan seeks to be sealed concerns personally identifiable information, internal research and development efforts and strategies relating to its conception and development of the subject Finjan patent, as well as confidential information from a third party, Eitan Law Group. Motion at § I.

I. GOOD CAUSE EXISTS FOR SEALING FINJAN'S CONFIDENTIAL INFORMATION

Good cause exists for sealing Finjan's confidential information regarding personally identifiable information and internal research and development efforts at Finjan, because Finjan has certified that the information sought to be sealed has never been made public. Motion at § II, Certification of Non-Publication. Indeed, the Board has routinely granted motions to seal where a movant certifies that the

subject matter it seeks to be sealed is non-public. *See Apotex Inc. v. Wyeth LLC*, IPR2014-00115, at 4 (PTAB Apr. 20, 2015) (Paper 93); *Mylan Pharms. Inc. v. Yeda Research & Dev. Co.*, IPR2015-00643, at 3 (PTAB Feb. 17, 2016) (Paper 52); *Purdue Pharma L.P. v. Depomed, Inc.*, IPR2014-00377, at 3 (PTAB Mar. 17 2015) (Paper 64). Here, Finjan seeks to seal its Patent Owner Response and Certain Exhibits because the documents disclose personally identifiable information, including the names, phone numbers, and email addresses of individuals, and confidential research and development information, such as communications between Finjan employees.

Finjan necessarily relies on this confidential information to establish the conception and development of the subject patent in order to predate the prior art at issue, and there is no need for such information to be disseminated to the public, especially the personally identifiable information of individuals. Thus, good cause exists for sealing this information.

II. HARM TO FINJAN WOULD RESULT FROM PUBLIC DISCLOSURE

As Finjan articulated in its Motion, allowing competitors to access such confidential information would significantly harm Finjan's competitive position in the marketplace. Motion at § I. Finjan maintains strict confidentiality of its internal documents, which relate to research and development efforts at Finjan

because disclosing such information to the public would reveal sensitive information relating to Finjan's research and development strategies and competitive advantages. Simply redacting the Patent Owner Response and Certain Exhibits would not enhance the public record in this case, and would not outweigh the concern to Finjan that such confidential and proprietary information would be released to the public as the information solely relates to internal confidential business information. Furthermore, there is no public interest in having the personally identifiable information of individuals, such as phone numbers and email addresses, be part of the public record.

III. CONCLUSION

For the foregoing reason, Finjan requests that the Board grant Patent Owner's Motion to Seal. In the alternative, Finjan requests guidance as to portions of the papers that Finjan may redact in order to prevent sensitive information from being disseminated to the public.

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), the undersigned certifies that a true and correct copy of the Patent Owner's Reply to Petitioner's Opposition to 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 was served on October 27, 2016, by delivering via electronic mail upon the following counsel of record for Petitioner:

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