

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Palo Alto Networks, Inc. and
Blue Coat Systems, Inc.,
Petitioners

v.

Finjan, Inc.
Patent Owner

Case IPR2016-00159¹
Patent No. 8,677,494

**PETITIONER'S RESPONSE TO PATENT OWNER'S
MOTION TO EXCLUDE**

¹ Case IPR2016-01174 has been joined with the instant proceeding.

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Motion to Exclude
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Patent Owner Finjan, Inc.'s Motion to Exclude (Paper 35) should be denied for the reasons below.

I. PATENT OWNER'S ARGUMENTS REGARDING ALLEGED NEW MATERIAL SHOULD BE REJECTED

Finjan disregards the Board's Order allowing only a numbered list of alleged new material and forbidding "arguments or statements identifying the reason these portions are outside the scope of the Reply." (Paper 29 at 2.) Finjan improperly uses its motion to exclude to argue that the Reply raises new arguments. *Nintendo of Am. Inc. v. Motion Games LLC*, IPR2014-00164, Paper 51 at 24 (PTAB May 15, 2015); *Vibrant Media, Inc. v. General Elec. Co.*, IPR2013-00172, Paper 50, at 41 (PTAB July 28, 2014). Finjan's motion to exclude Exhibits 1089, 1091, 1093-1097 and related arguments in the Reply should be denied for this reason alone. (Paper 35 at 1-4, 7-10.) As explained below, each of Finjan's "new evidence" arguments lacks merit.

A. Exhibits 1095-1097 and Related Arguments Properly Rebut Finjan's Response and Should Not Be Excluded

Finjan's arguments for excluding Exhibits 1095-1097 (Paper 35 at 2) are directed at the sufficiency of Petitioner's public availability proof, rather than admissibility. *See Liberty Mutual Ins. Co. v. Progressive Casualty Ins. Co.*, CBM2012-00002, Paper 66 at 62 (PTAB Jan. 23, 2014). Accordingly, Exhibits

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