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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

NETSKOPE, INC.,

Plaintiff,

v.

FORTINET, INC.,

Defendant.

Case No. 4:25-cv-02360-HSG

PLAINTIFF NETSKOPE, INC.'S PRELIMINARY INFRINGEMENT CONTENTIONS

Pursuant to Rules 3-1 and 3-2 of the Local Rules of Practice for Patent Cases before the United States District Court for the Northern District of California, Plaintiff Netskope, Inc. ("Netskope") makes the following disclosures to Defendant, Fortinet, Inc. ("Fortinet").

Netskope makes these disclosures based upon information presently known and reasonably available as of this date, as Netskope's investigations are ongoing, and Fortinet has yet to provide any discovery regarding its products. Accordingly, Netskope reserves the right to amend, modify, supplement, or narrow any portion of these disclosures, including, but not limited to, the identification of the claims infringed by Fortinet, the products and services accused of infringement and the theories of infringement described herein. Netskope reserves the right to supplement these disclosures as necessary and as appropriate in accordance with the Federal Rules of Civil Procedure and this Court's Local Rules (including Patent Local Rule 3-6), in light of future production of documents and code, interrogatory responses, admissions, disclosures, contentions, fact witness testimony, expert discovery, any other discovery, future rulings from the Court (including claim construction), any amendments to the pleadings, any additional items of evidence, or for any other reason authorized by statute, rule, or applicable case law.

To the maximum degree allowed by the Federal Rules of Civil Procedure and the Court's Local Rules, Netskope reserves its right to supplement, amend, modify, and/or narrow these disclosures, as appropriate, as the extent of infringement becomes more fully known, the Court makes any relevant rulings (including claim construction), and the case develops over the course of discovery.

I. DISCLOSURES PURSUANT TO PATENT L.R. 3-1

A. Patent L.R. 3-1(a) Disclosures: Asserted Claims

Netskope alleges that Fortinet infringes under 35 U.S.C. § 271(a) at least claims 1-3, 5-6, and 9-20 of United States Patent No. 8,356,336 (the "'336 Patent"), at least claims 1, 2, 6, 7, and 13-20 of United States Patent No. 8,543,710 (the "'710 Patent"), at least claims 1-27 of United States Patent No. 8,117,639 (the "'639 Patent"), at least claims 1-9 of United States Patent No. 8,224,983 (the "'983 Patent"), and at least claims 1-7 of United States Patent No. 8,327,426 (the "'426 Patent"), at least claims 1-22 of the United States Patent No. 7,593,936 (the "'936 Patent"), at least claims 1-35 of the United States Patent No. 8,397,282 (the "'282 Patent"), at least claims 1-20, 22, and 24 of the United States Patent No. 8,661,153 (the "'153 Patent") , at least claims 1-25 of the United States Patent No. 8,635,697 (the "'697 Patent") (collectively the "Asserted Patents" and the "Asserted Claims").

This identification of Asserted Claims is, at this stage in the proceedings, necessarily limited in the sense that Netskope has had limited access to information concerning the structure and function of Fortinet's accused products. Netskope reserves the right to further amend, modify, or supplement its infringement contentions as appropriate, including by identifying additional claims whose infringement may be revealed as a result of discovery.

B. Patent L.R. 3-1(b) Disclosures: Accused Instrumentalities

Subject to the foregoing reservations, based on information presently known to Netskope, Netskope asserts infringement of the Asserted Claims based on Fortinet's products and services encompassing (without limitation) Fortinet's FortiGate, FortiAP, FortiOS, FortiGate NGFW, FortiAuthenticator, FortiEDR, FortiWeb Cloud, FortiNAC, other cloud security products, and other related products and services sold by Fortinet (collectively, the "Accused Fortinet Products").

For the reasons discussed above, Netskope reserves the right to further amend, modify, or supplement its infringement contentions as appropriate, including by identifying additional Accused Fortinet products whose infringement may be revealed as a result of further discovery.

C. Patent L.R. 3-1(c) Disclosures: Claim Charts

The attached appendices show in chart form how the Accused Fortinet Products infringe each of the Asserted Claims. Exhibit 10 is the claim chart for the '336 Patent; Exhibit 11 is the claim chart for the '710 Patent; Exhibit 12 is the claim chart for the '639 Patent; Exhibit 13 is the claim chart for the '983 Patent; Exhibit 14 is the claim chart for the '426 Patent; Exhibit 15 is the claim chart for the '936 Patent; Exhibit 16 is the claim chart for the '282 Patent; Exhibit 17 is the claim chart for the '153 Patent; and, Exhibit 18 is the claim chart for the '697 Patent. Netskope further incorporates by reference the disclosures of its Second Amended Complaint filed on June 13, 2025 (Dkt. 029, Ex. 10-18).

The citations and explanations included in these claim charts are merely exemplary. In formatting the charts, Netskope has subdivided each Asserted Claim into elements for convenience. However, the subdivisions in the charts are not to be taken as an indication of the boundaries of claim elements with respect to doctrine of equivalents, or any other issue. Additionally, the Accused Fortinet Products may infringe the Asserted Claims in multiple ways.

For the reasons discussed above, Netskope reserves the right to further amend, modify, or supplement its infringement contentions as appropriate, including by identifying additional asserted claims, accused products, or infringement theories that may be discovered as a result of further discovery.

D. Patent L.R. 3-1(d) Disclosures: Direct and Indirect Infringement

Based upon presently known information, Netskope alleges the following with respect to Fortinet's direct and indirect infringement of the Asserted Patents.

As an initial matter, Fortinet directly infringes the Asserted Patents because it makes, uses, offers to sell, and sells within the United States and imports into the United States the Accused Fortinet Products. As shown in the attached claim charts, the Accused Fortinet Products utilize and perform the patented inventions covered by the Asserted Claims.

Further, Fortinet contributes to and induces infringement of the Asserted Claims by (among other things) intentionally marketing the Accused Fortinet Products to other parties such as Fortinet's customers, and by supplying, selling, causing to be sold, offering to sell, through intermediaries, as an intermediary, or otherwise, the Accused Fortinet Products to these parties. All steps contained in the claims of the Asserted Claims are performed either by Fortinet and/or entities under its control or direction. For example, in connection with these activities, Fortinet provides specific instructions to third parties on the infringing use of the Accused Fortinet Products, including specifically instructing other parties on the use and features of the Accused Fortinet Products. *See, e.g.*, Fortinet, *FortiGate / FortiOS 7.6.2 Administration Guide: Getting Started* (last accessed July 1, 2025)[1]; Fortinet, *FortiGate / FortiOS 7.2.2 Administration Guide: Traffic Shaping Policies* (last accessed July 1, 2025)[2]; Fortinet, *FortiAuthenticator 6.4.0: Generating the G Suite Certificate* (last accessed July 1, 2025)[3]; Fortinet, *FortiGate / FortiOS 7.2.1, Administration Guide: Global Traffic Prioritization* (last accessed July 1, 2025)[4]; Fortinet, *FortiAP / FortiWifi 7.2.0,*

[1] https://fortinetweb.s3.amazonaws.com/docs.fortinet.com/v2/attachments/52e2e108-dcf5-11ef-8766-ca4255feedd9/fortigate-7000F-762.pdf.
[2] https://docs.fortinet.com/index.php/document/fortigate/7.2.2/administration-guide/933502.
[3] https://fortinetweb.s3.amazonaws.com/docs.fortinet.com/v2/attachments/52c06fe2-eb01-11eb-97f7-00505692583a/FortiAuthenticator-6.4.0-Cookbook.pdf at 170.
[4] https://docs.fortinet.com/document/fortigate/7.2.1/administration-guide/15578/global-traffic-prioritization.

FortiWifi and FortiAP Configuration Guide: Captive Portal Security (last accessed July 1, 2025)[5]; Fortinet, *FortiAP / FortiWifi 7.2.0, FortiWifi and FortiAP Configuration Guide: Monitoring Wireless Clients* (last accessed July 1, 2025)[6]; Fortinet, *FortiWeb 7.0.0, Administrative Guide* (last accessed July 1, 2025)[7]; Fortinet, *FortiEDR/XDR 5.2.0, Administrative Guide* (last accessed July 1, 2025)[8]. Thus, Fortinet intends that users of the Accused Fortinet Products perform the steps and use the functionality identified as infringing in these contentions.

In addition and/or in the alternative, Fortinet has partnered with other parties to infringe the Asserted Claims. These partners may include identity providers, such as Okta, as well as cloud-based application providers such as Google Cloud, Amazon, and Alibaba Cloud, among others. *See, e.g.*, Fortinet, *Fortinet Open Fabric Ecosystem Partners* (last accessed July 1, 2025).[9] Fortinet advertises and promotes its partnership with its technology partners. *See, e.g., id*. Similarly, Fortinet's technology partners advertise and promote their partnership with Fortinet. *See, e.g.*, Okta, *Okta MFA for Fortinet VPN* (last accessed July 1, 2025)[10], Google Cloud, *Fortinet Adaptive Cloud Security for Google Cloud* (last accessed July 1, 2025)[11]. Thus, Fortinet and other parties jointly use the Accused Fortinet Products to use the claimed inventions of the Asserted Claims as set forth in these contentions and claim charts.

Fortinet has been actively aware of the Asserted Patents and their infringement of them at least since Netskope provided written notice of the Asserted Patents via correspondence prior on

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[5] https://docs.fortinet.com/document/fortiap/7.2.0/fortiwifi-and-fortiap-configuration-guide/292926/captive-portal-security.
[6] https://docs.fortinet.com/document/fortiap/7.2.0/fortiwifi-and-fortiap-configuration-guide/385047/configuring-wildcard-address-in-captive-portal-walled-garden.
[7] https://docs.fortinet.com/document/fortiweb/7.0.0/administration-guide/94907/configuring-anomaly-detection-policy.
[8] https://docs.fortinet.com/document/fortiedr/5.2.0/administration-guide/176732/extended-detection-source-integration.
[9] https://www.fortinet.com/partners/partnerships/alliance-partners.
[10] https://www.okta.com/integrations/MFA-for-VPN/fortinet/.
[11] https://cloud.google.com/find-a-partner/partner/fortinet.

November 11, 2024. This is explained in Netskope's Second Amended Complaint (*see* ¶¶ 275, 375, 386, 392, 403, 409, 420, 426, 437, 443, 454, 460, 471, 477, 488, 494, 505, 511, 522), which are herein incorporated by reference. Additionally, Fortinet has been on notice of the '336, '710, '639, '983, and '426 Asserted Patents and their infringement of them since the filing of the Third Amended Complaint and Supplemental Complaint in the Netskope DJ Litigation (Case No. NDCA-3:22-cv-01852, Dkt. 96) and has been on notice of the '936, '282, '153, and '697 Asserted Patents and their infringement of them since the filing of the Complaint (Dkt. 1). Despite this knowledge, Defendants have nevertheless encouraged and continue to encourage their customers and end users to directly infringe the Asserted Patents by selling infringing products directed to the U.S. market, marketing their infringing products to U.S. customers, and providing support and information concerning the use of the infringing products.

Based on at least these facts, Fortinet knew or should have known that there was an objectively high risk of infringement by the Accused Fortinet Products of the Asserted Patents. The Accused Fortinet Products identified in these contentions and claim charts have no substantial non-infringing use, and Fortinet has not identified any. To the contrary, the Accused Fortinet Products are specifically made and adapted for use in practicing one or more of the Asserted Claims. Fortinet therefore acted with full knowledge and can be understood as intending that the use of its products would result in infringement.

E. Patent L.R. 3-1(e) Disclosures: Doctrine of Equivalents

Based on presently known information, Netskope contends that Fortinet literally infringes the Asserted Claims. Alternatively, to the extent Fortinet contends that the Asserted Claims are not literally infringed, Netskope contends that for each and every claim element, Fortinet still infringes under the doctrine of equivalents because the Accused Fortinet Products perform substantially the

same function, in substantially the same way, to achieve substantially the same result as the claim limitations.

For the reasons discussed above, Netskope reserves the right to further amend, modify, or supplement its infringement contentions to reflect the results of discovery in this matter, including to respond to any alleged non-infringement arguments advanced by Fortinet.

F. Patent L.R. 3-1(f) Disclosures: Priority Date

Each of the claims of the Accused Patents are entitled to a priority date at least as early as identified below. Netskope reserves the right to establish an earlier date of invention based upon actions relating to conception and reduction to practice of the claimed inventions.

Patent	Claim	Priority	
		App. No.	Priority Date
'336 Patent	All	U.S. Pat. Appl. No. 60/551,702	March 10, 2004
'710 Patent	All	U.S. Pat. Appl. No. 60/551,702	March 10, 2004
'639 Patent	All	U.S. Pat. Appl. No. 60/417,674	October 10, 2002
'983 Patent	All	U.S. Pat. Appl. No. 60/418,968	October 16, 2002
'426 Patent	All	U.S. Pat. Appl. No. 11/444,944	June 1, 2006
'936 Patent	All	U.S. Pat. Appl. No. 60/494,225	August 11, 2003
'282 Patent	All	U.S. Pat. Appl. No. 60/551,698	March 10, 2004
'153 Patent	All	U.S. Pat. Appl. No. 60/418,968	October 16, 2002
'697 Patent	All	U.S. Pat. Appl. No. 61/469,024	March 29, 2011

G. Patent L.R. 3-1(g) Disclosures: Practice of the Claimed Invention

Netskope does not allege that it practices the Asserted Claims.

H. Patent L. R. 3-1(h) Disclosures: Timing of Infringement

Based on information presently known to Netskope, Netskope asserts the following first dates of infringement for the Asserted Patents:

Patent	Date of Infringement
’336 Patent	January 15, 2013 (Date the patent issued)
’710 Patent	September 24, 2013 (Date the patent issued)
’639 Patent	February 14, 2012 (Date the patent issued)
’983 Patent	July 17, 2012 (Date the patent issued)
’426 Patent	December 4, 2012 (Date the patent issued)
’936 Patent	September 22, 2009 (Date the patent issued)
’282 Patent	March 12, 2013 (Date the patent issued)
’153 Patent	February 25, 2014 (Date the patent issued)
’697 Patent	January 21, 2014 (Date the patent issued)

I. Patent L.R. 3-1(i) Disclosures: Willful Infringement

Based on information presently known to Netskope, Netskope further asserts that these are also the dates on which damages began accruing based on Fortinet’s infringement. Fortinet’s infringement is presently ongoing and so damages are continuing to accrue to this date. Netskope further asserts that Fortinet’s infringement of the Asserted Claims has been, and continues to be, willful.

II. PATENT L.R. 3-2 PRODUCTION OF DOCUMENTS

Based on presently known information, and as may be further specified or supplemented as discovery proceeds, Netskope states that the following documents produced to date may be relevant to the subject matter categories identified in Patent L.R. 3-2:

Patent L.R. 3-2(a)	No responsive, non-privileged documents identified at this time.
Patent L.R. 3-2(b)	No responsive, non-privileged documents identified at this time.
Patent L.R. 3-2(c)	See NetskopeNDJ_000081 – NetskopeNDJ_002706; NetskopeNDJ_002751 – NetskopeNDJ_007224
Patent L.R. 3-2(d)	See NetskopeNDJ_002707 – NetskopeNDJ_002750;
Patent L.R. 3-2(e)	No responsive, non-privileged documents identified at this time.
Patent L.R. 3-2(f)	See NetskopeNDJ_000049 – NetskopeNDJ_000077
Patent L.R. 3-2(g)	See NetskopeNDJ_000001 – NetskopeNDJ_000048; NetskopeNDJ_000078 – NetskopeNDJ_000080;
Patent L.R. 3-2(h)	See NetskopeNDJ_000001 – NetskopeNDJ_000048; NetskopeNDJ_000078 – NetskopeNDJ_000080;
Patent L.R. 3-2(i)	No responsive, non-privileged documents identified at this time.
Patent L.R. 3-2(j)	No responsive, non-privileged documents identified at this time.

DATED: July 1, 2025

Perkins Coie LLP

By: */s/ Thomas N. Millikan*

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Case Name: Netskope, Inc. v. Fortinet, Inc.

Case Number: 4:25-cv-02360-HSG

I, the undersigned, declare:

I am a citizen of the United States and employed by the firm of Perkins Coie LLP in San Diego County, California. I am over the age of eighteen years and not a party to the within-entitled action. On July 1, 2025, I served a copy of the within document(s):

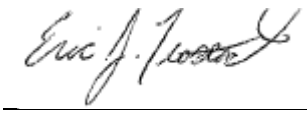
PLAINTIFF NETSKOPE, INC.'S PRELIMINARY INFRINGEMENT CONTENTIONS

to the person (s) indicated below in the manner as provided in Fed. R. Civ. P. 5(b)(2)(E):

☒ By Electronic Mail – serving the enclosed via e-mail transmission to:

Ryan Kiyoto Iwahashi Gish PLLC 50 California Street, Suite 1500 San Francisco, CA 94111 Email: ryan@gishpllc.com Andrew Gish Gish PLLC 41 Madison Avenue, Floor 31 New York, NY 10010 Email: andrew@gishpllc.com	Attorneys for Fortinet, Inc.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct. Executed on July 1, 2025.



Eric Trostad

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