

## Overview

# Why Licensing Best Practices?

Economic value can be tracked through any number of measures, one that stands out as a primary driver is the pace of innovation. One obvious metric for tracking innovation is through the U.S. patent system where inventions enabling prolific and opportunistic gains in our economy are captured. That is not to say that all patents have equivalent value but as the landscape shifts to an intellectual property (IP) focused economy, it is necessary to have established, easy to understand, and transparent mechanisms to both assess the quality and value of innovation. However, over the past two decades, unnecessary and counter-productive patent protection efforts have emerged leading the industry to rethink and reform current business practices while unfortunately doing more to undermine the importance of this new measure of economic growth and very little to combat the misuses of IP.

Recognizing this turbulent shift, Finjan, with its history as a product producing company and a leader in web and network security sectors, as well as successfully licensing its patented inventions throughout the industry to a number of major software and technology companies around the world, has established a set of benchmark Licensing Best Practices to ensure candid, transparent and consistent business practices for IP licensing. These best practices proposed by Finjan are backed by its management, partners, board, and shareholders who firmly believe in the investment of tangible technologies while also appreciating the value of those innovations which are captured in its patent portfolio. They are intended to do two things: (1) provide a heightened standard by which we wish to be perceived within the industry, and (2) encourage a constructive dialog by all parties on both sides of the value equation (i.e., patent owners and licensees). Moreover, we believe these best practices will ultimately foster environments that support technological advancements, investments in innovation, and continued job creation while preserving a strong patent system.

## Setting the Stage

# Technology and Innovation Are Driving Change

For more than two centuries, technological advancements have rapidly reshaped our lives through innovation and new product development. IP has incentivized this innovative spirit by driving our modern knowledge economy and providing benefits for those who discover useful and non-obvious inventions that enhance and protect our society.

With IP driving growth in industry segments across a wide variety of fields, there is an expanding mandate to continue innovating while also respecting previous contributions in each respective field where prior investment and development efforts are captured within a company's patent portfolio. This responsibility can be achieved by clearly defining a set of guidelines to provide both transparency and liquidity to the thriving IP licensing industry, and to serve as a platform to promote greater ethical practices going forward. What follows is a list of four core values in licensing, adopted by Finjan, and supported by seven best practices. Finjan is committed to instilling these standards within its own business operations and encouraging industry-wide adoption.

Patents also play a critical role in bolstering the nation's economy and creating jobs. According to the Innovation Alliance:

- In 2010, patents supported 40 million jobs – 27.7% of all jobs in the U.S.; this number is even higher today.
- In 2010, IP-intensive industries accounted for \$5.06 trillion in value added, or 34.8% of U.S. gross domestic product.
- Every two jobs in IP-intensive industries support an additional job elsewhere in the economy.

## Licensing Core Values

# Driven by Integrity and Transparency

Finjan believes that by stepping forward and defining our own core values early in our growth, it will guide us as a newly public company on how we develop our business relationships, differentiate our brand within the IP licensing industry, and ultimately define our corporate ethos. As such, Finjan will operate by the following core values that will assist in driving change not only with words, but impactful actions:

Invest in, protect and support the broad dissemination of technological advancements, which in turn create rewards for investments in innovation and job creation.

Show leadership and commitment as credible advocates of IP rights, standing up as trustworthy experts in our industry.

Preserve our integrity by consistently being honest, truthful, and transparent in our actions.

Build strong relationships through strong communications.

## Licensing Best Practices

# Driven by Core Values - Finjan's Commitment

Standing on the foundation of our core values, and in an effort to encourage meaningful discussion and drive real change in the licensing practices of all entities that license but do not directly practice their respective patents, Finjan itself commits to the following seven Licensing Best Practices:

1. Ensure focused licensing and enforcement programs pursuing the provider of the patented technology and not its customers, consumers or end users.
2. Conduct reasonable diligence to determine a patent's enforceability and use with respect to prospective licensees, and make that information available to them.
3. Respect procedural rights and judicial efficiency in the courts and in the prosecution and protection of IP behind the innovation.
4. Be transparent with the intent in each discussion, and articulate the cause and effect scenarios which would prompt a shift in communication and an escalation of each discussion.
5. Provide useful facts to prospective licensees and defendants to foster productive business discussions early and often to aid in informed decision-making.
6. Offer fair value licenses or settlements based on legitimate factors and considerations.
7. Commit to keeping lines of communications open between the patent owner and prospective licensee to preserve a path for the parties to find an amicable solution or resolution for their respective businesses.

## Beyond Core Values and Best Practices

Moreover, Finjan is engaged in the debate that these – or similar – standards should be adopted by companies, academic and governmental institutions, industry organizations and other IP-influencers. The Company's efforts to support this initiative include:

1. Mandate a certain code of conduct by its representatives, affiliates and counsel in connection with all external licensing activities.
2. Teach and speak on industry panels that are attended by industry leaders, entrepreneurs and students.
3. Participate in U.S. Patent and Trademark Office sponsored programs (e.g., Educational Outreach Program, training programs and events).
4. Support and participate in academic programs throughout the U.S.
5. Create an internship program to train and mentor young up-and-coming individuals in the technology and patent fields.
6. Engage with government officials to help them better understand the challenges and opportunities the industry faces, and provide counsel on patent reforms.

## Conclusion

The Licensing Best Practices have been created through Finjan's internal efforts and are intended to serve as a conversation starter within the IP licensing industry and encourage a constructive dialog with technology companies. We welcome the opportunity to discuss these standards further and receive additional proposals on ways to achieve wider adoption within the industry, which in turn will continue to drive accelerated technology advances that will cement the U.S. as a world leader with a knowledge based economy that is driven by an innovative spirit and protected by strong patent system.

## Contact

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