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Attorneys for Plaintiff
FINJAN, INC.

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

FINJAN, INC., a Delaware Corporation,

Plaintiff,

v.

JUNIPER NETWORKS, INC., a Delaware Corporation,

Defendant.

Case No.: 3:17-cv-05659-WHA

FINJAN'S PROPOSED REDACTIONS –

EXHIBIT 5 TO JUNIPER'S MOTION FOR SUMMARY JUDGMENT - REDACTED

REDACTED VERSION OF DOCUMENT SOUGHT TO BE SEALED

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION
--oOo--

FINJAN, Inc., a Delaware corporation

Plaintiff,

vs. Case No. 3:17-cv-05659-WHA

JUNIPER NETWORKS, INC., a Delaware corporation

Defendant.

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HIGHLY CONFIDENTIAL, OUTSIDE ATTORNEYS EYES ONLY

30(b)(6) VIDEOTAPED DEPOSITION OF
JOHN GARLAND
Thursday, May 24, 2018

Reported by:
COREY W. ANDERSON
CSR No. 4096
Job No. 2923791
Pages 1 - 258

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THE WITNESS: It's really outside my scope.
BY MS. CARSON:
Q. Before Finjan filed those lawsuits, did Finjan do anything to confirm it had a reasonable basis for asserting infringement of the patents that were at issue in those lawsuits?
MS. KOBIALKA: Objection, form.
THE WITNESS: Yeah, I think that's outside my scope where I'm handling licensing. But I can say that Finjan complies with everything it's required to comply with.
BY MS. CARSON:
Q. Is it Finjan's policy to only maintain patent infringement claims in a lawsuit when it has a reasonable basis for maintaining those claims?
MS. KOBIALKA: Objection, form.
THE WITNESS: I'm not sure, I -- I mean, I can continue to answer these questions, but I'm really questioning how we are talking about notice for marking. The topic of the deposition is notice and marking and I'm getting questions about litigation where I'm a licensing executive.
BY MS. CARSON:
Q. Can you answer the question?

Page 46

[redacted]

Page 48

MS. KOBIALKA: I'm going to object to form.
THE WITNESS: I need the question repeated.
(Whereupon, the reporter read back the record as follows:
"Is it Finjan's policy to only maintain patent infringement claims in a lawsuit when it has a reasonable basis for maintaining those claims?")
MS. KOBIALKA: I object to the form of that question.
THE WITNESS: I -- I can't answer the question.
BY MS. CARSON:
Q. You don't know one way or another?
MS. KOBIALKA: Objection to form.
THE WITNESS: I think, you know, you are starting to get into privilege and we are starting to get into, you know, beyond my scope of responsibilities.
BY MS. CARSON:
Q. Does Finjan have standard terms for its licenses?

Page 47

[redacted]

Page 49

Pages 46 to 49

no or you don't know. 15:59:49
I'm not trying to direct his answer, but 15:59:50
I'm trying to work through the privilege. If you 15:59:52
are going to object, Counsel, I'll just stop and 15:59:53
I'll just make an instruction. 15:59:57
MS. CARSON: So I'm just trying to think 16:00:02
through the issue because if he took like 16:00:03
contemporaneous notes with a phone call he had with 16:00:05
Juniper, I'm not sure how that would fall within the 16:00:08
scope of privilege. 16:00:11
MS. KOBIALKA: If his question's for 16:00:13
counsel, absolutely. I think absolutely if you 16:00:14
would take notes for purposes of getting legal 16:00:17
advice, I do think that those notes -- 16:00:19
MS. CARSON: Hmm. 16:00:24
MS. KOBIALKA: -- would be privileged, 16:00:24
especially like if these are the issues I need to 16:00:25
talk about with counsel. 16:00:27
MS. CARSON: Okay. Well, we'll just start 16:00:29
with a yes or no, do they exist. 16:00:30
MS. KOBIALKA: She is just asking whether 16:00:32
or not they exist. You can answer that yes or no if 16:00:33
you know one way or the other, you don't know, and 16:00:35
then we'll take from it there. I don't want you to 16:00:38
expound on it, is -- because I think that does get 16:00:40

into privilege issues. 16:00:43
THE WITNESS: I documented the summary of 16:00:52
that call -- 16:00:53
MS. KOBIALKA: Well, okay, so now, I want 16:00:54
you to very careful because it starts to get into 16:00:56
privilege issues. 16:01:00
So you can answer the question yes or no 16:01:00
or if you don't know, one way or the other. But I 16:01:03
don't want to get -- 16:01:06
THE WITNESS: I'm not going to get into 16:01:08
substance, but just -- 16:01:09
MS. KOBIALKA: She is only asking does it 16:01:10
exist. Otherwise I'm going to instruct you not to 16:01:11
answer. 16:01:14
THE WITNESS: Yes, it exists. 16:01:17
MS. KOBIALKA: Okay. 16:01:18
BY MS. CARSON: 16:01:18
Q. Did you review it before your deposition 16:01:18
today? 16:01:20
MS. KOBIALKA: Objection to form. 16:01:26
THE WITNESS: Uh-huh. 16:01:29
BY MS. CARSON: 16:01:30
Q. Did it refresh your recollection as to 16:01:30
what occurred on the call? 16:01:31
MS. KOBIALKA: Objection to form. 16:01:33

THE WITNESS: That call's pretty bright. 16:01:37
That call's pretty bright, unique. 16:01:39
BY MS. CARSON: 16:01:41
Q. So that wasn't an answer to the question. 16:01:41
Did reviewing your notes from the call 16:01:43
refresh your recollection as to what occurred on the 16:01:45
call? 16:01:48
MS. KOBIALKA: Objection to form. 16:01:48
THE WITNESS: Yes. Given it's November of 16:01:52
2015, yes. 16:01:54
MS. CARSON: Okay. So Counsel, we would 16:01:56
request that that be produced given that it 16:01:57
refreshed the recollection of the Rule 30(b)(6) 16:01:58
witness. 16:02:01
MS. KOBIALKA: He just said his memory was 16:02:02
very bright from the call. He didn't say -- 16:02:04
MS. CARSON: But he also said yes, it did 16:02:06
refresh his recollection. We can take it up 16:02:08
after -- after the deposition. 16:02:10
Q. Are you aware of any evidence that Juniper 16:02:52
had notice of the '780 patent prior to Finjan filing 16:02:54
this lawsuit? 16:02:59
MS. KOBIALKA: Objection to form. 16:03:00
THE WITNESS: I need the question again, 16:03:06
sorry. 16:03:07

(Whereupon, the reporter read back 16:03:07
the record as follows: 16:03:07
"Are you aware of any evidence that 16:03:07
Juniper had notice of the '780 16:03:07
patent prior to Finjan filing this 16:03:07
lawsuit?") 16:03:07
[redacted]
BY MS. CARSON: 16:03:40
Q. You are not aware of any instance where 16:03:40
Finjan told Juniper either orally or in writing 16:03:43
about the '780 patent and its infringement 16:03:46
contentions related to that. 16:03:48
Correct? 16:03:51
A. Correct. 16:03:52
MS. KOBIALKA: Objection to form. 16:03:53
BY MS. CARSON: 16:03:54
Q. Are you aware of any evidence that Juniper 16:04:00
had notice of the '926 patent prior to this lawsuit 16:04:01
being failed? 16:04:04
MS. KOBIALKA: Objection, form. 16:04:06
THE WITNESS: Only what's in the 16:04:13