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FINJAN, INC.

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

FINJAN, INC.,  
  
Plaintiff,  
  
v.  
  
JUNIPER NETWORKS, INC.,  
  
Defendant.

Case No.: 3:17-cv-05659-WHA  
  
**FINJAN, INC.’S REQUEST FOR JUDICIAL  
NOTICE**  
  
Date: July 26, 2018  
Time: 8:00 a.m.  
Courtroom: Courtroom 12, 19th Floor  
Before: Hon. William Alsup

1 **REQUEST FOR JUDICIAL NOTICE**

2 Finjan, Inc. (“Finjan”) respectfully requests that the Court take judicial notice of the following  
3 records as bearing on its pending Motion to Dismiss Defendant Juniper Networks, Inc.’s Third, Fourth,  
4 Fifth, and Sixth Counterclaims and to Strike Juniper’s Tenth, Eleventh, Twelfth, and Fourteenth  
5 Affirmative Defenses:

- 6 1) U.S. Patent No. 8,677,494 Patent, attached hereto as Exhibit 1.
- 7 2) U.S. Patent No. 8,141,154, attached hereto as Exhibit 2.
- 8 3) U.S. Patent No. 7,647,633, attached hereto as Exhibit 3.
- 9 4) U.S. Patent No. 7,613,926, attached hereto as Exhibit 4.
- 10 5) Excerpted portions of the file history of the ’494 Patent, attached hereto as  
11 Exhibit 5.<sup>1</sup>
- 12 6) Plaintiff Finjan, Inc.’s Disclosure of Asserted Claims and Infringement  
13 Contentions and Document Production Accompanying Disclosure Pursuant to  
14 Patent Local Rules 3-1 and 3-2 from *Finjan, Inc. v. Symantec Corp.*, Case No. 14-  
15 cv-02998-RS, dated December 4, 2014, attached hereto as Exhibit 6.
- 16 7) Plaintiff Finjan, Inc.’s Preliminary Election of Asserted Claims from *Finjan, Inc.*  
17 *v. Symantec Corp.*, Case No. 14-cv-02998-HSG, dated March 3, 2017, attached  
18 hereto as Exhibit 7.
- 19 8) Plaintiff Finjan, Inc.’s Supplemental Responses to Defendant Symantec Corp.’s  
20 Interrogatories (No. 1), filed as Exhibit J to the Cassidy Declaration in Support of  
21 Symantec’s Motion to Amend Its Answer to Add an Inequitable Conduct Defense  
22 from *Finjan, Inc. v. Symantec Corp.*, Case No. 14-cv-02998-HSG, Dkt. 242-11  
23 (N.D. Cal. Aug. 18, 2017), attached hereto as Exhibit 8.
- 24 9) Plaintiff Finjan, Inc.’s Final Election of Asserted Claims, filed as Exhibit H to the  
25 Cassidy Declaration in Support of Symantec’s Motion to Amend Its Answer to

26 \_\_\_\_\_  
27 <sup>1</sup> Because the complete file history of the ’494 Patent (Ex. 6) is voluminous, Finjan has attached  
28 excerpted portions of the file history that contain information relevant to Finjan’s Motion. Finjan is  
29 prepared to submit the entire file history if the Court so requests.

1 Add an Inequitable Conduct Defense from *Finjan, Inc. v. Symantec Corp.*, Case  
2 No. 14-cv-02998-HSG, Dkt. 242-9 (N.D. Cal. Aug. 18, 2017), attached hereto as  
3 Exhibit 9.

- 4 10) Plaintiff Finjan, Inc.’s Supplemental Responses to Defendant Symantec Corp.’s  
5 Interrogatories (Nos. 1 and 12), filed as Exhibit I to the Cassidy Declaration in  
6 Support of Symantec’s Motion to Amend Its Answer to Add an Inequitable  
7 Conduct Defense from *Finjan, Inc. v. Symantec Corp.*, Case No. 14-cv-02998-  
8 HSG, Dkt. 242-10 (N.D. Cal. Aug. 18, 2017), attached hereto as Exhibit 10.<sup>2</sup>
- 9 11) U.S. Patent No. 6,092,194, attached hereto as Exhibit 12.
- 10 12) U.S. Patent No. 6,804,780, attached hereto as Exhibit 13.
- 11 13) U.S. Patent No. 8,079,086, attached hereto as Exhibit 14.
- 12 14) U.S. Patent No. 6,154,844, attached hereto as Exhibit 15.
- 13 15) U.S. Patent Application Serial No. 11/281,839, “Ross,” IPR2016-00151, Ex. 1003,  
14 attached hereto as Exhibit 16.
- 15 16) Patent Trial and Appeal Board’s Final Written Decision of the ‘494 Patent in *Palo*  
16 *Alto Networks, Inc. v. Finjan, Inc.*, IPR2016-00159, Paper No. 50 (P.T.A.B. April  
17 11, 2017), attached hereto as Exhibit 17.

18 **MEMORANDUM OF POINTS AND AUTHORITIES**

19 Finjan’s request for judicial notice should be granted as the Court may take judicial notice of  
20 facts that are “not subject to reasonable dispute,” such as when they can be “accurately and readily  
21 determined from sources whose accuracy cannot reasonably be questioned.” Fed. R. Evid. 201(b)(2).  
22 The Ninth Circuit and this District authorize taking judicial notice of patents, patent file histories and  
23 patent application materials, information disclosure statements and notices of allowance. *See*  
24 *Oroamerica Inc. v. D & W Jewelry Co.*, 10 Fed. App’x 516, 517, n.4 (9th Cir. 2001) (taking judicial  
25 notice of patent file histories, information disclosure statements and notices of allowance); *X One, Inc.*  
26 *v. Uber Techs., Inc.*, 239 F. Supp. 3d 1174 (N.D. Cal. 2017) (taking judicial notice of patents listed in  
27

28 <sup>2</sup> Ex. 11 to the Declaration of Kristopher Kastens filed with Finjan’s Motion was intentionally omitted.

1 specification of patents-in-suit where patents were matters of public record). Furthermore, the Court  
2 should take judicial notice of the remainder of the exhibits because courts may take judicial notice of  
3 its own records in different cases. *See AirWair Int'l Ltd. v. Schultz*, 84 F. Supp. 3d 943, 950–51 (N.D.  
4 Cal. 2015) (“Matters which are appropriate subjects of judicial notice include ‘matters of public  
5 record.’”)(citing *Lee v. City of Los Angeles*, 250 F.3d 668, 689 (9th Cir. 2001)).

6 The authenticity of the documents for which Finjan requests judicial notice is not subject to  
7 reasonable dispute. Accordingly, the Court should grant Finjan’s request for judicial notice.

8  
9 Respectfully submitted,

10 DATED: June 15, 2018

11 By: /s/ Lisa Kobialka  
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