	Case 3:17-cv-05659-WHA Document 125	5-3 Filed 06/28/18 Page 1 of 49
	REDACTED VERSION OF DOCUMEN	IT SOUGHT TO BE SEALED
4 5 6 7 8 9 10	IRELL & MANELLA LLP Jonathan S. Kagan (SBN 166039) jkagan@irell.com Joshua Glucoft (SBN 301249) jglucoft@irell.com Casey Curran (SBN 305210) ccurran@irell.com Sharon Song (SBN 313535) ssong@irell.com 1800 Avenue of the Stars, Suite 900 Los Angeles, California 90067-4276 Telephone: (310) 277-1010 Facsimile: (310) 203-7199 Rebecca Carson (SBN 254105) rcarson@irell.com Kevin Wang (SBN 318024) kwang@irell.com 840 Newport Center Drive, Suite 400 Newport Beach, California 92660-6324 Telephone: (949) 760-0991	AT SOUGHT TO BE SEALED
12 13 14	Facsimile: (949) 760-5200 Attorneys for Defendant	
15	UNITED STATES	S DISTRICT COURT
16	NORTHERN DISTR	RICT OF CALIFORNIA
17	SAN FRANC	ISCO DIVISION
18	FINJAN, INC., a Delaware Corporation,	) Case No. 3:17-cv-05659-WHA
19	Plaintiff,	<ul> <li>DEFENDANT JUNIPER NETWORKS,</li> <li>INC.'S OPPOSITION TO PLAINTIFF</li> </ul>
20	VS.	) FINJAN, INC.'S MOTION FOR ) SUMMARY JUDGMENT OF
21	JUNIPER NETWORKS, INC., a Delaware Corporation,	<ul> <li>) INFRINGEMENT OF CLAIM 10 OF U.S.</li> <li>) PATENT NO. 8,677,494</li> </ul>
22 23 24	Defendant.	<ul> <li>Date: July 26, 2018</li> <li>Time: 8:00 a.m.</li> <li>Courtroom: 12, 19<sup>th</sup> Floor</li> <li>Before: Hon. William H. Alsup</li> </ul>
25		
26		
27		
28		
	R M Find authenticated court documents wi	thout watermarks at <u>docketalarm.com</u> .

1			TABLE OF CONTENTS	
2				<u>P</u> :
3	I. I	NTRODU	CTION	
4	II. T	TECHNOL	OGY BACKGROUND	,
5	A	A. Mal	ware Detection	,
6	E	<b>3</b> . '494	4 Patent	•••••
7	C	C. Ope	eration of SRX & Sky ATP	
8	III. C	CLAIM CC	DNSTRUCTION	
9	A	A. Lega	al Standard	•••••
10	E	B. Agr	reed Constructions	
11	0	C. Add	litional Terms For Construction	
12	IV. F	FINJAN IS	NOT ENTITLED TO SUMMARY JUDGEMENT	1
13	A	A. Lega	al Standard	1
14	E		an Is Not Entitled To Summary Judgment Because It Has Not t Its Burden To Establish Compliance With 35 U.S.C. § 287	1
15 16		1.	The Undisputed Facts Show That Finjan And Its Licensees Failed To Mark	1
17		2.	There Is No Evidence That Finjan Provided Juniper With Actual Notice Prior To Filing Its Complaint	1
18 19	(	Met	an Is Not Entitled To Summary Judgement Because It Has Not t Its Burden To Demonstrate No Factual Disputes Regarding ingement	
20		1.	Finjan Presents No Evidence That SRX Infringes Claim 10	
21 22		2.	Sky ATP Does Not Infringe, Or At A Minimum There Are Disputed Factual Issues	
23			(a) Finjan offers no evidence that Sky ATP includes a "scanner"	2
24 25			(b) Sky ATP does not derive a "list of suspicious computer operations that may be attempted by the Downloadable"	
26 27			(c) Finjan Has Not Established That Sky ATP Meets Element 10(b) Under Doctrine of Equivalents	2
28				

	Case 3	3:17-c	v-0565	59-WH	A Document 125-3 Filed 06/28/18 Page 3 of 49	
	RE	DAC	TED VI	ERSIC	ON OF DOCUMENT SOUGHT TO BE SEALED	
1						
2						
3 4				(d)	Finjan Has Not Established That Sky ATP Stores A List Of Suspicious Computer Operations In A "Database"	••••
5				(e)	Finjan Has Not Established That Sky ATP Meets Element 10(c) Under Doctrine of Equivalents	•••
6 7				(f)	Finjan Has Not Established That Sky ATP Has A "Database Manager"	•••
8 9				(g)	Finjan Has Not Established That Sky ATP Derives The Downloadable Security Profile Before Storing It	•••
10			3.	Finjaı Comb	n Is Not Entitled To Summary Judgment That The bination of SRX & Sky ATP Infringe Claim 10	•••
11	]	D.	Finjan Unpate	Is Not entable	Entitled To Summary Judgment Because Claim 10 Is Under 35 U.S.C. § 101	•••
12			1.	Claim	10 Is Directed Towards An Abstract Idea	•••
13			2.		10 Does Not Have A Transformative Inventive	
14					ept	
15	V. (	CONC	CLUSIO	•N		••
16						
17						
18						
19						
20						
21						
22						
23						
24						
25						
26						
27						
28						

	Case 3:17-cv-05659-WHA Document 125-3 Filed 06/28/18 Page 4 of 49				
	REDACTED VERSION OF DOCUMENT SOUGHT TO BE SEALED				
1	TABLE OF AUTHORITIES				
2	Page(s)				
3	Cases				
4	Acantha LLC v. Depuy Orthopedics Inc.,				
5	No. 15-C-1257, 2018 WL 1951231 (E.D. Wis. Apr. 25, 2018)				
6	Accent Packaging, Inc. v. Leggett & Platt, Inc., 707 F.3d 1318 (Fed. Cir. 2013)				
7					
8	Alice Corp. Pty. Ltd. v. CLS Bank Int'l, 134 S. Ct. 2347 (2014) passim				
9	Amsted Indus. Inc. v. Buckeye Steel Castings Co.,				
10	24 F.3d 178 (Fed. Cir. 1994)15, 19, 21				
11	<i>Apple, Inc. v. Ameranth, Inc.,</i> 842 F.3d 1229 (Fed. Cir. 2016)				
12					
13	<i>Apple, Inc. v. Samsung Elecs. Co., Ltd.,</i> 926 F. Supp. 2d 1100 (N.D. Cal. 2013)				
14	Arctic Cat, Inc. v. Bombardier Recreational Prods. Inc.,				
15	876 F.3d 1350 (Fed. Cir. 2017)				
16	Asylus Networks, Inc. v. Apple, Inc., 856 F.3d 1353 (Fed. Cir. May 11, 2017)				
17 18	Bascom Glob. Internet Servs., Inc. v. AT&T Mobility LLC, 827 F.3d 1341 (Fed. Cir. 2016)				
19	Bilski v. Kappos,				
20	561 U.S. 593 (2010)				
21	Cal. Inst. of Tech. v. Hughes Commc'ns Inc., 59 F. Supp. 3d 974 (C.D. Cal. 2014)				
22	Calmar, Inc. v. Emson Research, Inc.,				
23	850 F. Supp. 861 (C.D. Cal. 1994)				
24	Clancy Sys. Int'l, Inc. v. Symbol Techs., Inc.,				
25	953 F. Supp. 1170 (D. Colo. 1997)				
26	<i>Commil USA, LLC v. Cisco Sys., Inc.,</i> 135 S. Ct. 1920 (2015)				
27 28	Content Extraction & Transmission LLC v. Wells Fargo Bank, Nat'l Ass'n, 776 F.3d 1343 (Fed. Cir. 2014)				

**DOCKET A L A R M** Find authenticated court documents without watermarks at <u>docketalarm.com</u>.

#### **REDACTED VERSION OF DOCUMENT SOUGHT TO BE SEALED**

DOCKET

1	Corning Optical Commc'ns Wireless Ltd. v. SOLiD, Inc., 5:14-cv-03750-PSG, 2015 WL 5723403 (N.D. Cal. Sept. 16, 2015)	
2		
3	CyberSource Corp. v. Retail Decisions Inc., 654 F.3d 1366 (Fed. Cir. 2011)	
4	Cybiotronics, Ltd. v. Golden Source Elecs. Ltd.,	
5	130 F. Supp. 2d 1152 (C.D. Cal. 2001)	
6	Datamize, LLC v. Plumtree Software, Inc.,	
7	417 F.3d 1342 (Fed. Cir. 2005)9, 11	
8	DDR Holdings, LLC v. Hotels.com, L.P., 773 F.3d 1245 (Fed. Cir. 2014)	
9		
10	Devices for Med., Inc. v. Boehl, 822 F.2d 1062 (Fed. Cir. 1987)	
11	Dunlap v. Schofield,	
	152 U.S. 244 (1894)	
12	Eastman Kodak Co. v. Agfa-Gevaert N.V.,	
13	560 F. Supp. 2d 227 (W.D.N.Y. 2008), judgment entered, 2008 WL 5115252	
14	(W.D.N.Y. Dec. 4, 2008), and aff'd, 351 F. App'x 441 (Fed. Cir. 2009)	
15	Elec. Power Grp., LLC v. Alstom S.A.,	
	830 F.3d 1350 (Fed. Cir. 2016)	
16	Enfish, LLC v. Microsoft Corp.,	
17	822 F.3d 1327 (Fed. Cir. 2016)	
18	Evolutionary Intelligence, LLC v. Sprint Nextel Corp.,	
	No. 13-03587, 2014 WL 4802426 (N.D. Cal. Sept. 26, 2014)	
19		
20	<i>FairWarning IP, LLC v. Iatric Sys, Inc.</i> , 839 F.3d 1089 (Fed. Cir. 2016)	
21		
	Finjan v. Sophos, 244 E. Swar, 24 1016 (N.D. Col. Mar. 14, 2017) 26, 27, 20	
22	244 F. Supp. 3d 1016 (N.D. Cal. Mar. 14, 2017)	
23	Finjan, Inc. v. Blue Coat Sys., LLC,	
24	No. 15-cv-03295, 2016 U.S. Dist. LEXIS 157429 (N.D. Cal. Nov. 14, 2016) passim	
	Finjan, Inc. v. Blue Coat Sys., LLC,	
25	No. 15-cv-03295-BLF, 2016 WL 7212322 (N.D. Cal. Dec. 13, 2016)	
26	Finjan, Inc. v. F5 Networks, Inc.,	
27	No. 3:16-cv-06955-JSC (N.D. Cal. Dec. 2, 2016)	
28		
20		

**A L A R M** Find authenticated court documents without watermarks at <u>docketalarm.com</u>.

## DOCKET A L A R M



# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## **Real-Time Litigation Alerts**



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## **Advanced Docket Research**



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## **Analytics At Your Fingertips**



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

### API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

#### LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

#### FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

#### E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.