

REDACTED VERSION OF DOCUMENT SOUGHT TO BE SEALED

Exhibit D (Redacted)

REDACTED VERSION OF DOCUMENT SOUGHT TO BE SEALED

Curran, Casey

From: Carson, Rebecca
Sent: Friday, June 29, 2018 4:33 PM
To: Glucoft, Josh; ~Kobialka, Lisa
Cc: ~Kastens, Kristopher; ~Andre, Paul; ~Hannah, James; ~Lee, Michael; ~Manes, Austin; ~Nguyen, Stephanie; #Juniper/Finjan [Int]
Subject: RE: Finjan/Juniper

Lisa,

It has been almost two weeks, and we have not received a response to Josh's email below. There is no basis for Finjan to withhold Mr. Garland's notes from the call with Mr. Coonan, particularly given that they refreshed his recollection prior to his Rule 30(b)(6) testimony. If Finjan does not produce them by Monday, we will be filing a motion to compel.

Please also confirm that Finjan has produced all emails and other documents from Mr. Garland, Mr. Chaperot, and Ms. Mar-Spinola regarding Juniper.

Regards,
Rebecca

From: Glucoft, Josh
Sent: Monday, June 11, 2018 3:49 PM
To: ~Kobialka, Lisa <lkobialka@kramerlevin.com>
Cc: Carson, Rebecca <RCarson@irell.com>; ~Kastens, Kristopher <kkastens@kramerlevin.com>; ~Andre, Paul <pandre@kramerlevin.com>; ~Hannah, James <jhannah@kramerlevin.com>; ~Lee, Michael <mhlee@kramerlevin.com>; ~Manes, Austin <amanes@kramerlevin.com>; ~Nguyen, Stephanie <SNguyen@KRAMERLEVIN.com>; #Juniper/Finjan [Int] <Juniper-Finjan@irell.com>
Subject: RE: Finjan/Juniper

Lisa,

Following up on our confer, during his deposition, Mr. Garland testified as follows (224:5-10):

[REDACTED]

Judge Alsup's Standing Order at ¶ 29 states : "defending counsel shall segregate and retain all materials used to refresh their memories and shall provide them to examining counsel at the outset of the deposition."

Mr. Garland's notes are also responsive to at least Juniper's RFP nos. 1, 2, 8, 40, 44, 45, 47. Mr. Garland's notes are also responsive to at least Juniper's interrogatory nos. 3 and 6. No documents authored by Mr. Garland are identified on Finjan's privilege log, nor did Finjan's responses to these discovery requests indicate that Mr. Garland's notes were being withheld as privileged.

Mr. Garland's notes, which he described as [REDACTED] (Tr. at 223:2-3), are not privileged and, even if they could somehow be considered privileged, Finjan has waived the privilege by failing to timely assert it. Mr. Garland's admission that his "summary" notes refreshed his recollection also fall squarely within Judge Alsup's Order requiring they be produced at the outset of his deposition.

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Unless the parties can reach some agreement, Finjan must produce Mr. Garland's notes. Please let us know whether Finjan has any proposals to consider or we may need to take this up with the Court.

As to Mr. Coonan's and Ms. McKenzie's documents, Juniper will produce those in due course. Juniper has been focused on expediting the production of huge volumes of technical information demanded by Finjan and on the review and production of nearly forty thousand emails and attachments falling within the scope of Finjan's indiscriminate search terms for Mr. Kao. If Finjan intends to select Mr. Coonan and Ms. McKenzie as custodians, please identify them and provide search terms; otherwise, Juniper will apply its own search methodology.

Regards,
Josh

From: Kobialka, Lisa [<mailto:LKobialka@KRAMERLEVIN.com>]
Sent: Sunday, June 10, 2018 4:02 PM
To: Glucoft, Josh
Cc: Carson, Rebecca; ~Kastens, Kristopher; ~Andre, Paul; ~Hannah, James; ~Lee, Michael; ~Manes, Austin; ~Nguyen, Stephanie
Subject: RE: Finjan/Juniper

Josh,

We have received the final transcript of John Garland to the extent you want to discuss his testimony further.

Separately, I am confirming the concern I raised during our call on Friday, June 8, that Juniper has presented an issue regarding when damages can begin on summary judgment for which Juniper has failed to produce relevant, responsive discovery. On March 26, Juniper agreed to produce documents responsive to Request for Production Nos. 1, 2, and 3, which includes documents and communications relating to the Asserted Patents and notice to Juniper about Finjan's patents, which goes to the damages issues raised in Juniper's summary judgment motion. Scott Coonan and Meredith McKenzie were the two individuals that Finjan communicated with for years regarding a license to Finjan's patents. However, as you confirmed, none of Mr. Coonan's or Ms. McKenzie's emails have been produced. In fact, you stated that Juniper is "taking steps to review the email" of Mr. Coonan and Ms. McKenzie. You stated that the holdup was due to Juniper's concerns about ESI search terms and hits. As you well know and acknowledged to me, Judge Alsup's standing order requires the parties to search for relevant, responsive emails and not necessarily wait for search terms to search emails. It is unclear at this time what other discovery Juniper has failed to produce in response to Finjan's discovery requests, particularly as it relates to the parties' summary judgment motions. Given Juniper's discovery failings, Finjan reserves all rights to address this issue and resulting prejudice as appropriate.

Very truly yours,
Lisa

Lisa Kobialka
Partner

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REDACTED VERSION OF DOCUMENT SOUGHT TO BE SEALED

From: Glucoft, Josh [<mailto:JGlucoft@irell.com>]

Sent: Tuesday, June 05, 2018 2:34 PM

To: Kobialka, Lisa; Kastens, Kris; Andre, Paul; Hannah, James; Kastens, Kris; Lee, Michael H.; Manes, Austin; Nguyen, Stephanie

Cc: Carson, Rebecca

Subject: [EXTERNAL] RE: Finjan/Juniper

Lisa,

I'll call you then.

Thanks,

Josh

From: Kobialka, Lisa [<mailto:LKobialka@KRAMERLEVIN.com>]

Sent: Tuesday, June 5, 2018 2:09 PM

To: Glucoft, Josh; ~Kastens, Kristopher; ~Andre, Paul; ~Hannah, James; ~Kastens, Kristopher; ~Lee, Michael; ~Manes, Austin; ~Nguyen, Stephanie

Cc: Carson, Rebecca

Subject: RE: Finjan/Juniper

Counsel,

We are waiting to receive the transcript, which we understand will be coming later this week. To the extent you want a meet and confer Friday at 11 am is fine.

Lisa

Lisa Kobialka

Partner

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[Bio](#)

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From: Glucoft, Josh [<mailto:JGlucoft@irell.com>]

Sent: Tuesday, June 05, 2018 1:39 PM

To: Kobialka, Lisa; Kastens, Kris; Andre, Paul; Hannah, James; Kastens, Kris; Kobialka, Lisa; Lee, Michael H.; Manes, Austin; Nguyen, Stephanie

Cc: #Juniper/Finjan [Int]; Carson, Rebecca

Subject: [EXTERNAL] RE: Finjan/Juniper

Lisa and Kris,

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Can you please provide times you are available to confer this Friday? You have not responded to our letter in a week and a half.

Thanks,
Josh

From: Carson, Rebecca
Sent: Friday, June 1, 2018 11:45 PM
To: ~Kobialka, Lisa
Cc: #Juniper/Finjan [Int]; #Finjan-KramerLevin [Ext]
Subject: RE: Finjan/Juniper

Lisa,

I have not received a response to my letter. Please promptly respond, or provide your availability on Monday for a meet and confer.

Regards,
Rebecca

From: Carson, Rebecca
Sent: Friday, May 25, 2018 3:46 PM
To: ~Kobialka, Lisa
Cc: #Juniper/Finjan [Int]; #Finjan-KramerLevin [Ext]
Subject: Finjan/Juniper

Dear Lisa,

Please see the attached letter.

Regards,
Rebecca

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