

1 PAUL ANDRE (State Bar No. 196585)
pandre@kramerlevin.com
2 LISA KOBIALKA (State Bar No. 191404)
lkobialka@kramerlevin.com
3 JAMES HANNAH (State Bar No. 237978)
jhannah@kramerlevin.com
4 KRISTOPHER KASTENS (State Bar No. 254797)
kkastens@kramerlevin.com
5 KRAMER LEVIN NAFTALIS & FRANKEL LLP
6 990 Marsh Road
7 Menlo Park, CA 94025
8 Telephone: (650) 752-1700
Facsimile: (650) 752-1800

9 *Attorneys for Plaintiff*
10 FINJAN, INC.

11 **IN THE UNITED STATES DISTRICT COURT**
12 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
13 **SAN FRANCISCO DIVISION**

14 FINJAN, INC., a Delaware Corporation,

15 Plaintiff,

16 v.

17 JUNIPER NETWORKS, INC., a Delaware
18 Corporation,

19 Defendant.

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

**PLAINTIFF FINJAN, INC.'S REPLY IN
SUPPORT OF ITS MOTION FOR
SUMMARY JUDGMENT OF INFRINGEMENT
OF CLAIM 10 OF U.S. PATENT NO. 8,677,494**

Date: July 26, 2018
Time: 8:00 a.m.
Courtroom: Courtroom 12, 19th Floor
Before: Hon. William Alsup

20
21
22
23 **REDACTED VERSION OF DOCUMENT SOUGHT TO BE SEALED**
24
25
26
27
28

TABLE OF CONTENTS

Page

1

2

3 I. CLAIM CONSTRUCTION..... 1

4 A. “database” 1

5 B. “Downloadable Scanner” 2

6 C. Suspicious Computer Operations..... 3

7 D. A List of Suspicious Computer Operations 4

8 E. Database Manager..... 5

9

10 II. INFRINGEMENT..... 6

11 A. Preamble and Element 10(a) is Met..... 6

12 B. Element 10(b) is Met 6

13 1. Malware Analysis Pipeline (“MAP”) is a “Downloadable Scanner” 6

14 2. MAP creates “a list of suspicious computer operations that may be

15 attempted by the Downloadable.” 7

16 C. Element 10(c) is Met..... 8

17 1. MAP Stores the Downloadable Security Profile (“DSP”) Data in the

18 [REDACTED] 8

19 2. The [REDACTED] has a “Database Manager” 10

20 III. CLAIM 10 IS ELIGIBLE UNDER 35 U.S.C. § 101..... 11

21 IV. FINJAN COMPLIED WITH 35 U.S.C. § 287 13

22 V. CONCLUSION..... 15

23

24

25

26

27

28

TABLE OF AUTHORITIES

Page(s)

Cases

Arctic Cat Inc. v. Bombardier Recreational Prods. Inc.,
876 F.3d 1350 (Fed. Cir. 2017)..... 15

Baldwin Graphic Sys., Inc. v. Siebert, Inc.,
512 F.3d 1338 (Fed. Cir. 2008)..... 9

Berkheimer v. HP Inc.,
881 F.3d 1360 (Fed. Cir. 2018)..... 13

Blitzsafe Tex., LLC v. Honda Motor Co.,
No. 2:15-cv-1274-JRG-RSP,
2017 U.S. Dist. LEXIS 58358 (E.D. Tex. Jan. 26, 2017)..... 15

Bradford Co. v. Jefferson Smurfit Corp.,
No. 2000-1511, 2001 WL 35738792 (Fed. Cir. Oct. 31, 2001)..... 13

Cioffi v. Google, Inc.,
632 Fed. App’x 1013 (Fed. Cir. 2015)..... 4

Crane Security Techs., Inc. v. Rolling Optics AB,
No. 14-12428-LTS, 2018 U.S. Dist. LEXIS 12730 (D. Mass. Jan. 26, 2018) 14

Dynamic Drinkware, LLC v. National Graphics, Inc.,
800 F.3d 1375 (Fed. Cir. 2015)..... 2

Finjan, Inc. v. Blue Coat Sys., Inc.,
879 F.3d 1299 (Fed. Cir. 2018)..... 11, 12

Finjan, Inc. v. Blue Coat Sys. LLC,
No. 15-cv-03295-BLF, 2016 WL 7212322 (N.D. Cal. Dec. 13, 2016)..... 3, 5, 12, 13

Finjan, Inc. v. McAfee, Inc.,
No. 10-cv-00593 (GMS), Dkt. 326 (D. Del. Dec. 29, 2012) 3, 5

Finjan, Inc. v. Proofpoint, Inc.,
No. 13-cv-05808-HSG, Dkt. 117-1 (N.D. Cal. January 26, 2015) 3

Finjan, Inc. v. Sophos, Inc.,
244 F. Supp. 3d 1016 (N.D. Cal. 2015) 3, 12, 13

Funai Elec. Co. v. Daewoo Elecs. Corp.,
616 F.3d 1357 (Fed. Cir. 2010)..... 14

1 *Gart v. Logitech, Inc.*,
254 F.3d 1334 (Fed. Cir. 2001)..... 14

2 *Info-Hold, Inc. v. Applied Media Techs. Corp.*,
3 783 F.3d 1262 (Fed. Cir. 2015)..... 2

4 *KSR Int’l Co. v. Teleflex Inc.*,
5 550 U.S. 398 (2007)..... 13

6 *Menda Biton v. Menda*,
7 796 F. Supp. 631 (D.P.R. 1992)..... 14

8 *North Am. Watch Corp. v. Princess Ermine Jewels*,
786 F.2d 1447 (9th Cir. 1986) 14, 15

9 *Palo Alto Networks, Inc. v. Finjan, Inc.*,
10 No. 2017-2543, Dkt. 42 (Fed. Cir. May 22, 2018) 5, 11

11 *SAS Inst., Inc. v. ComplementSoft, LLC*,
825 F.3d 1341 (Fed. Cir. 2016)..... 5

12 *Sonix Techs. Co. v. Pubs. Int’l, Ltd.*,
13 844 F.3d 1370 (Fed. Cir. 2017)..... 4

14 *Trading Techs. Int’l, Inc. v. CQG, Inc.*,
15 675 F. App’x 1001 (Fed. Cir. 2017) 11

16 **Statutes**

17 18 U.S.C.A. § 2510..... 14

18 18 U.S.C. § 2511(2)(d) 13

19 35 U.S.C. § 101..... 11, 13

20 35 U.S.C. § 287..... 13

21 Cal. Penal Code § 632 (a), (b)..... 13

1 **I. CLAIM CONSTRUCTION**

2 Since Juniper infringes under a plain reading of the claims, Juniper raises at least seven
3 different claim construction proposals. Even under these proposals, however, Juniper still infringes.

4 **A. “database”**

5 Finjan: plain and ordinary meaning, which is “a collection of interrelated data organized according to a database schema to serve one or more applications”	6 Juniper: “a collection of interrelated data ¹ organized according to a database schema ² to serve one or more applications”
--	--

7 Juniper adopts Finjan’s construction for “database” but adds several unsupported and
8 limitations in its further construction of the plain and ordinary meaning based upon misstatements
9 about Finjan’s positions and what occurred during IPRs. First, Finjan never argued during the IPRs
10 that the “data” needs to be in a table with rows and columns and, as such, Juniper’s additional
11 construction of “data” to be in a “table” and further construction of “table” is unwarranted because
12 Finjan never said that “data” in all databases must be in a table. Rather, Finjan argued that a particular
13 “flat file” was not a “flat file database” because the particular implementation in a “flat file database”
14 uses a table. Dkt. 126-16 at 38 (a POSA understands “Swimmer’s audit record to be a flat file ... not a
15 flat file database ...”). Finjan also never asserted that a table *requires* rows and columns and Juniper’s
16 claims are not in the intrinsic record and contradicted by dictionary definitions. Reply Ex. 1³ at 571
17 (“**Table** A set of contiguous, related items, each uniquely identified either by its relative position in the
18 set or by some label”). Juniper’s dictionary is inapplicable because Juniper chose a construction
19 limited only to a particular type of database, a “relational database.” Dkt. 126-10. While Juniper tries
20 to narrow “database schema,” the PTAB applied “database schema” to be a clearly defined
21 organizational structure. IPR2015-01892, Paper No. 58 at 41 (PTAB finding a comma-delimited file
22 format found to be a database schema because it had a defined structure).

24 _____
25 ¹ Juniper construes “data” as “data stored in tables,” and “tables” as “rows and columns.” Opp. at 6-7.

26 ² Juniper construes “organized according to a database schema” as a “description of a database to a database management system (DBMS) in the language provided by the DBMS.” Opp. at 6.

27 ³ Unless otherwise indicated, all “Reply Ex. _” references herein are to the Declaration of Kristopher
28 Kastens in Support of Finjan’s Reply in Support of Its Motion for Summary Judgment filed herewith.

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.