

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

Before The Honorable William H. Alsup, Judge

FINJAN, INC.,)	
)	
Plaintiff,)	
)	
VS.)	NO. C 17-05659 WHA
)	
JUNIPER NETWORK, INC.,)	
)	
Defendant.)	
)	

San Francisco, California
Thursday, July 26, 2018

TRANSCRIPT OF PROCEEDINGS

APPEARANCES:

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Reported By: Jo Ann Bryce, CSR No. 3321, RMR, CRR, FCRR
Official Reporter

1 Thursday - July 26, 2018

8:23 a.m.

2 P R O C E E D I N G S

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4 **THE CLERK:** Calling civil action 17-5659, Finjan,
5 Inc., versus Juniper Network, Inc.

6 Counsel, please approach the podium and state your
7 appearances for the record.

8 **MR. ANDRE:** Good morning, Your Honor. Paul Andre for
9 Finjan.

10 **THE COURT:** Welcome.

11 **MR. ANDRE:** Thank you.

12 **MR. KAGAN:** Good morning, Your Honor. Happy to be
13 here in federal court. Jonathan Kagan of Irell & Manella
14 representing defendant Juniper Networks. With me is Rebecca
15 Carson. Then we also have a number of more junior attorneys
16 that we've brought who will -- we'd like to handle various
17 portions of the argument. They are Casey Curran, who I believe
18 you've already had the pleasure of entertaining argument from.
19 She's a 2015 grad from UCLA. We have Josh Glucoft, who is in
20 the back, is a 2014 Stanford grad. And we have Sharon Song,
21 who is a 2016 Harvard grad who will be addressing the motion to
22 dismiss if Your Honor wishes to hear argument on that.

23 **THE COURT:** I hope we can get to everything that the
24 young people are going to argue. There's so much briefing,
25 there's no way I can hear everything so we'll just have to see

1 how things develop.

2 Okay. Welcome on your side.

3 And let's get your appearances.

4 **MR. KASTENS:** Kristopher Kastens here from Kramer,
5 Levin, Naftalis & Frankel on behalf of Finjan, Inc.

6 **MR. HANNAH:** Good morning, Your Honor. James Hannah
7 on behalf of Finjan.

8 **THE COURT:** What year did you graduate?

9 **MR. HANNAH:** I graduated back in 2005.

10 **THE COURT:** Okay. You don't count anymore.

11 **MS. NGUYEN:** Good morning, Your Honor. My name is
12 Phuong Nguyen. I'm here on behalf of Finjan, Inc., and I'm a
13 2015 grad.

14 **THE COURT:** Okay. Good. I hope you get to argue
15 something.

16 So we have two -- actually three motions; right? There's
17 a motion about the pleadings, and then there are two summary
18 judgment motions; am I right?

19 **MR. ANDRE:** That's correct, Your Honor.

20 **MR. KAGAN:** Yes, Your Honor.

21 **THE COURT:** Well, let's start with the motion to
22 dismiss. Let's see, it's your motion; right?

23 **MR. ANDRE:** That's correct, Your Honor.

24 **THE COURT:** And you're trying to knock out inequitable
25 conduct.

1 **MR. ANDRE:** That's correct, Your Honor. And we have
2 our junior associate who is going to be arguing this one,
3 Your Honor, Ms. Nguyen.

4 **THE COURT:** Okay. Let's hear that.

5 But I don't have tons of time so you've got to come to the
6 main points. Please go ahead.

7 **MS. NGUYEN:** Good morning, Your Honor. May it please
8 the Court: Finjan seeks to dismiss and strike --

9 **THE COURT:** Point that thing a little more towards
10 your voice --

11 **MS. NGUYEN:** I'm a little short. Sorry.

12 **THE COURT:** -- so that everybody in the back can hear
13 you. They're straining to hear you.

14 Okay. Go ahead.

15 **MS. NGUYEN:** Finjan seeks to dismiss and strike
16 Juniper's allegations of prosecution laches, inequitable
17 conduct, unclean hands, and ensnarement.

18 With regard to Juniper's allegations of prosecution
19 laches, Juniper merely identifies the earliest date of the
20 priority application that was filed and then the filing date of
21 the patents at issue here.

22 **THE COURT:** I'm going to stop you. I'm going to tell
23 you how I understand the allegations, and then this is on
24 inequitable conduct, not the laches part. Let's just stick
25 with that for a minute.

1 So which patent is this? What number is this?

2 **MS. NGUYEN:** It's the '494 and the '154 that are at
3 issue for the inequitable conduct claims.

4 **THE COURT:** All right, '494.

5 What was the name of that inventor who swore behind the
6 prior art?

7 **MS. NGUYEN:** Mr. Shlomo Touboul.

8 **THE COURT:** Touboul. T-O-U-B-O-L?

9 **MS. NGUYEN:** T-O-U-B-O-U-L.

10 **THE COURT:** All right. So he says -- in the
11 prosecution history he filed a declaration saying that he had
12 invented the thing before the prior art, and then the patent
13 was issued thereafter. Is that part true?

14 **MS. NGUYEN:** Mostly, Your Honor. Mr. Touboul
15 specifically identified the claims that he was the sole
16 inventor of. He did not --

17 **THE COURT:** All right. Which claims were those?

18 **MS. NGUYEN:** Those were Claims 1, 3, 4 through 6, 9,
19 10, 12 through 15, and 18.

20 **THE COURT:** And how many other claims are there?

21 **MS. NGUYEN:** I don't have an exact number.

22 **THE COURT:** Give me a ballpark idea. Are there 25
23 other claims? 50? 100?

24 **MS. NGUYEN:** There are 18 total claims. So about, I
25 think, six or so other claims that were not solely invented by

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