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14
15 **UNITED STATES DISTRICT COURT**
16 **NORTHERN DISTRICT OF CALIFORNIA**
17 **SAN FRANCISCO DIVISION**

18 FINJAN, INC., a Delaware Corporation,,) Case No. 3:17-cv-05659-WHA
19 Plaintiff,)
20 v.) **DEFENDANT JUNIPER NETWORKS,**
21 JUNIPER NETWORKS, INC., a Delaware) **INC.'S REPLY TO PLAINTIFF FINJAN,**
Corporation,) **INC.'S OPENING CLAIM**
22 Defendant.) **CONSTRUCTION BRIEF**
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<i>Finjan, Inc. v. Cisco Sys., Inc.</i> , 2018 WL 3537142 (N.D. Cal. July 23, 2018).....	8, 16
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<i>Gutterglove, Inc. v. American Die & Rollforming, Inc.</i> , 2017 WL 4124229 (E.D. Cal. Sept. 18, 2017).....	20
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1 <i>MasterMine Software, Inc. v. Microsoft Corp.</i> ,	
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1 I. INTRODUCTION

2 Plaintiff Finjan, Inc.’s (“Finjan’s”) patent campaign against the network security industry
3 has taken a heavy toll on Finjan’s patent portfolio. Each of the patents currently asserted against
4 Juniper Networks, Inc. (“Juniper”) has been the subject of multiple reexamination or *inter partes*
5 review proceedings, during which Finjan made numerous concessions to save its patents. Now that
6 Finjan is trying to establish an infringement case against Juniper, it attempts to retreat from
7 statements it made to the USPTO and PTAB. This it cannot do; having conceded that its patents
8 are limited to preserve their validity, Finjan cannot now recapture the claim scope it surrendered.

9 In addition, Finjan’s claim that it is merely trying to use the “plain meaning” of many patent
10 terms is false. In many cases, Finjan’s proposed “plain meaning” ignores the actual, plain language
11 of the claims, the express goals of the patents, pertinent portions of the specification, and the relevant
12 prosecution history (including post-grant proceedings). See *Evolutionary Intelligence, LLC v. Sprint*
13 *Nextel Corp.*, 2014 WL 4802426, at *4 (N.D. Cal. Sept. 26, 2014) (IPR proceedings are “an
14 important part of the intrinsic record.”). Finjan also improperly cherry-picks favorable constructions
15 from past district court orders, while ignoring those that support Juniper’s proposed constructions.

16 Juniper’s constructions, on the other hand, are consistent with—and in some instances
17 identical—to the constructions applied by the USPTO and PTAB. Perhaps most importantly,
18 Juniper’s constructions accurately define what is actually taught in the patents as the purpose of the
19 inventions, as expressed in the specifications and prosecution histories—which is precisely what the
20 Federal Circuit has held claim constructions are supposed to do.

21 II. THE ’633 PATENT

22 The ’633 Patent is directed to a system that (1) determines whether an incoming file contains
23 executable code, and if so, (2) sends code to the client computer that will protect that computer by
24 running the file in a “sandbox” on the end user’s device. This approach facilitates load balancing
25 by conducting the resource-intensive dynamic analysis at the client computers instead of at the
26 gateway. Ex. 1 (’633 Patent) at 1:48-50, 2:14-16. Exemplary Claim 1 recites a computer processor-
27 based method, comprising:

28 receiving, by a computer, downloadable-information;

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