

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)
5 kkastens@kramerlevin.com
6 KRAMER LEVIN NAFTALIS & FRANKEL LLP
7 990 Marsh Road
8 Menlo Park, CA 94025
9 Telephone: (650) 752-1700
10 Facsimile: (650) 752-1800
11 *Attorneys for Plaintiff*
12 FINJAN, INC.

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

15 FINJAN, INC., a Delaware Corporation,

16 Plaintiff,

17 v.

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

20 Defendant.

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

**PLAINTIFF FINJAN, INC.’S NOTICE OF
MOTION AND MOTION TO EXCLUDE
OPINIONS OF DEFENDANT’S DAMAGES
EXPERT DR. KEITH R. UGONE;
MEMORANDUM OF POINTS AND
AUTHORITIES**

Date: November 29, 2018
Time: 8:00 a.m.
Courtroom: Courtroom 12, 19th Floor
Before: Hon. William Alsup

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24 **REDACTED VERSION OF DOCUMENT SOUGHT TO BE SEALED**
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1 **NOTICE OF MOTION AND MOTION**

2 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

3 NOTICE IS HEREBY GIVEN that on November 29, 2018, at 8:00 a.m., or as soon thereafter
4 as counsel may be heard by the Honorable William Alsup in Courtroom 12, 19th Floor, located at 450
5 Golden Gate Avenue, San Francisco, California 94102, Plaintiff Finjan, Inc. (“Finjan”) will and hereby
6 does move the Court for an order granting Finjan’s Motion to Exclude Opinions of Defendant’s
7 Damages Expert Keith R. Ugone.

8 This motion is based on this Notice of Motion, the following Memorandum of Points and
9 Authorities, the Declaration of Cristina Martinez filed herewith and exhibits attached thereto, the
10 proposed order submitted herewith, the pleadings and papers on file in this action, any evidence and
11 argument presented to the Court at or before the hearing on this motion, and all matters of which the
12 Court may take judicial notice.

13 **STATEMENT OF RELIEF SOUGHT**

14 Finjan seeks an Order excluding the opinions of Juniper’s damages expert, Dr. Keith R. Ugone.
15 regarding the reasonable royalty Juniper owes to Finjan as a result of its infringement of Finjan’s U.S.
16 Patent No. 8,677,494 (the “ ‘494 Patent”).

17 **STATEMENT OF ISSUES**

18 Whether the Court should exclude the opinions of Juniper’s damages expert, Dr. Keith R.
19 Ugone, regarding the amount of the reasonably royalty Juniper owes to Finjan based on his flawed
20 analysis of purported value indicators, as unreliable, lacking foundation and methodologically flawed
21 pursuant to Fed. R. Evid. 702 and *Daubert v. Merrell Dow Pharms., Inc.*, 509 U.S. 579, 597 (1993).

22 **I. INTRODUCTION**

23 Plaintiff Finjan, Inc. (“Finjan”) respectfully requests the Court, pursuant to Fed. R. Evid. 702
24 and *Daubert v. Merrell Dow Pharms., Inc.*, 509 U.S. 579, 597 (1993), preclude defendant Juniper
25 Network Inc.’s (“Juniper”) expert, Dr. Keith Ugone, from offering at trial unreliable and arbitrary
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