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10 *Attorneys for Plaintiff*
11 FINJAN, INC.

12 **IN THE UNITED STATES DISTRICT COURT**
13 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
14 **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 ANSWER
TO DEFENDANT JUNIPER NETWORKS,
INC.’S FIRST AMENDED
COUNTERCLAIMS 1-5**

DEMAND FOR JURY TRIAL

1 Plaintiff and Counterclaim-Defendant Finjan, Inc. (“Plaintiff” or “Finjan”) hereby answers
2 Counterclaims 1-5 filed by Defendant and Counterclaim-Plaintiff Juniper Networks, Inc. (“Juniper” or
3 “Defendant”) set forth in Defendant’s First Amended Answer to Finjan’s Second Amended
4 Complaint for Patent Infringement and Counter-claims filed on November 5, 2018 (the
5 “Counterclaims”) (Dkt. 218 at 17-31) as set forth below.

6
7 **JUNIPER’S COUNTERCLAIMS**

8 Finjan admits that Juniper alleges the following Counterclaims:

9 **THE PARTIES**

10 171. Admitted.

11 172. Admitted.

12 173. Admitted.

13
14 **JURISDICTION AND VENUE**

15 174. Finjan admits that this action arises under the Patent Act, 35 U.S.C. § 1 *et seq.* and that
16 there exists an actual and justiciable controversy between the parties regarding infringement of the
17 patents-in-suit. To the extent not expressly admitted, Finjan denies the allegations in this paragraph of
18 the Counterclaims.

19
20 175. Finjan admits that this Court has subject matter jurisdiction over this action pursuant to
21 28 U.S.C. §§ 1331 and 1338. To the extent not expressly admitted, Finjan denies the allegations in
22 this paragraph of the Counterclaims.

23 176. Finjan admits that this Court has personal jurisdiction over Finjan. To the extent not
24 expressly admitted, Finjan denies the allegations in this paragraph of the Counterclaims.

25
26 177. Finjan admits that venue is proper in this District. To the extent not expressly
27 admitted, Finjan denies the allegations in this paragraph of the Counterclaims.

BACKGROUND

1
2 178. Finjan admits that Juniper purports to seek a declaratory judgment that the patents-in-
3 suit are invalid, not infringed, and unenforceable. To the extent not expressly admitted, Finjan denies
4 the allegations in this paragraph of the Counterclaims.

5 179. Admitted.

6 180. Finjan admits that Finjan filed a complaint alleging that Juniper infringed the Patents-
7 in-Suit. Finjan admits that Juniper has purported to deny that it infringes a valid and enforceable
8 patent. To the extent not expressly admitted, Finjan denies the allegations in this paragraph of the
9 Counterclaims.
10

11 181. Finjan admits that on May 18, 2018 Finjan filed a First Amended Complaint alleging
12 that Juniper infringed the original Patents-in-Suit. Finjan admits that Juniper purported to deny that it
13 infringes a valid and enforceable patent. To the extent not expressly admitted, Finjan denies the
14 allegations in this paragraph of the Counterclaims.
15

16 182. Finjan admits that on July 27, 2018 Finjan filed a Second Amended Complaint alleging
17 that Juniper infringes the Patents-in-Suit. Finjan admits that Juniper purports to deny that it infringes
18 a valid and enforceable patent. To the extent not expressly admitted, Finjan denies the allegations in
19 this paragraph of the Counterclaims.
20

FIRST COUNTERCLAIM
(Declaratory Judgment of Non-Infringement of the Patents-in-Suit)

21
22 183. Finjan realleges and incorporates by reference the allegations set forth in its Complaint
23 and the preceding paragraphs of this Answer as though fully set forth herein.

24 184. Finjan admits that its complaint identified that Juniper infringed each of the patents-in-
25 suit. To the extent not expressly admitted, Finjan denies the allegations in this paragraph of the
26 Counterclaims.
27
28

1 185. Finjan admits that it Juniper purports that it does not infringe the patents-in-suit. To
2 the extent not expressly admitted, Finjan denies the allegations in this paragraph of the Counterclaims.

3 186. Admitted.

4 187. Finjan admits that Juniper purports to seek a declaratory judgment that it is not
5 infringing any valid and enforceable claim of the patents-in-suit. To the extent not expressly
6 admitted, Finjan denies the allegations in this paragraph of the Counterclaims.
7

8 **SECOND COUNTERCLAIM**

9 **(Declaratory Judgment of Invalidity of the Patents-in-Suit)**

10 188. Finjan realleges and incorporates by reference the allegations set forth in its Complaint
11 and the preceding paragraphs of this Answer as though fully set forth herein.

12 189. Admitted.

13 190. Finjan admits that Juniper purports that the patents-in-suit are invalid. To the extent
14 not expressly admitted, Finjan denies the allegations in this paragraph of the Counterclaims.
15

16 191. Admitted.

17 192. Finjan admits that Juniper purports to seek a declaratory judgment that the patents-in-
18 suit are invalid. To the extent not expressly admitted, Finjan denies the remaining allegations in this
19 paragraph of the Counterclaims.
20

21 **THIRD COUNTERCLAIM**

22 **(Declaratory Judgment of Unenforceability of the '494 Patent for Inequitable Conduct)**

23 193. Finjan realleges and incorporates by reference the allegations set forth in its Complaint
24 and the preceding paragraphs of this Answer as though fully set forth herein.

25 194. Admitted.

26 195. Finjan admits that Juniper denies the '494 Patent is enforceable. To the extent not
27 expressly admitted, Finjan denies the remaining allegations in this paragraph of the Counterclaims.
28

1 196. Finjan admits that the '494 Patent was filed on November 7, 2011. To the extent not
2 expressly admitted, Finjan denies the remaining allegations in this paragraph of the Counterclaims.

3 197. Finjan admits that the file history of the '494 Patent contains a declaration stating "I
4 believe the inventor(s) named below to be the original and first inventor(s) of the subject matter which
5 is claimed and for which a patent is sought on the Invention entitled MALICIOUS CODE RUNTIME
6 MONITORING SYSTEM AND METHODS" filed on May 17, 2001, with application number
7 09/881,229, and that Yigal Mordechai Edery, Nimrod Itzhak Vered, David R. Kroll, and Shlomo
8 Touboul are listed on the '494 Patent as inventors. The remaining allegations in this paragraph
9 constitute conclusions of law or legal argument to which no responsive pleading is necessary. To the
10 extent a responsive pleading is necessary, and to the extent not expressly admitted herein, Finjan
11 denies the remaining allegations in this paragraph of the Counterclaims.

12 198. Finjan admits that the original application for the '494 Patent claimed priority to U.S.
13 Patent No. 6,092,194, which was filed on November 6, 1997. To the extent not expressly admitted,
14 Finjan denies the remaining allegations in this paragraph of the Counterclaims.

15 199. Finjan admits that on July 23, 2012, the Examiner from the USPTO issued a non-final
16 office action relying on U.S. Patent No. 5,983,348. The remaining allegations in this paragraph
17 constitute conclusions of law or legal argument to which no responsive pleading is necessary. To the
18 extent a responsive pleading is necessary, and to the extent not expressly admitted herein, Finjan
19 denies the remaining allegations in this paragraph of the Counterclaims.

20 200. Finjan admits that on October 23, 2012, Dawn-Marie Bey, on behalf of Finjan, filed a
21 "Petition To Accept Unintentionally Delayed Claim Of Priority Under 35 U.S.C. § 119(e) And § 120
22 For The Benefit Of A Prior-filed Application Filed Under 37 C.F.R. § 1.78(a)(3)" and that she
23 represented that "the entire delay between the date the claim was due under 37 CFR § 1.78(a)(2)(ii)
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