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Attorneys for Defendant
JUNIPER NETWORKS, INC.

16 **IN THE UNITED STATES DISTRICT COURT**
17 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
18 **SAN FRANCISCO DIVISION**

19
20 FINJAN, INC.,
21
22 Plaintiff,
23
24 v.
25 JUNIPER NETWORKS, INC.,
26 Defendant.

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

**JOINT [PROPOSED] JURY
INSTRUCTIONS**

Trial Date: December 10, 2018
Time: 7:30 a.m.
Place: Courtroom 12 – 19th Floor
Judge: Hon. William Alsup

27 **REDACTED VERSION OF DOCUMENT SOUGHT TO BE SEALED**
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PRELIMINARY JURY INSTRUCTIONS

Yellow Highlight indicates changed or added language to a model instruction.

Strikethrough indicates deleted language from model instruction.

Optional instructions and basic changes such as inserting party name is not indicated.

1 invention, that were publicly known, or used in a publicly accessible way in this country, or that
2 were patented or described in a publication in any country. The patent examiner considers,
3 among other things, whether each claim defines an invention that is new, useful, and not obvious
4 in view of the prior art. A patent lists the prior art that the examiner considered; this list is called
5 the “cited references.”

6 After the prior art search and examination of the application, the patent examiner then
7 informs the applicant in writing what the examiner has found and whether any claim is patentable,
8 and thus will be “allowed.” This writing from the patent examiner is called an “office action.” If
9 the examiner rejects the claims, the applicant has an opportunity to respond and sometimes
10 changes the claims or submits new claims. This process, which takes place only between the
11 examiner and the patent applicant, may go back and forth for some time until the examiner is
12 satisfied that the application and claims meet the requirements for a patent. Sometimes, patents
13 are issued after appeals with the PTO or to a court. The papers generated during this time of
14 communicating back and forth between the patent examiner and the applicant make up what is
15 called the “prosecution history.” All of this material becomes available to the public no later than
16 the date when the patent issues.

17 The fact that the PTO grants a patent does not necessarily mean that any invention
18 claimed in the patent, in fact, deserves the protection of a patent. For example, the PTO may not
19 have had available to it all the information that will be presented to you. A person accused of
20 infringement has the right to argue here in federal court that a claimed invention in the patent is
21 invalid because it does not meet the requirements for a patent.

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23 *N.D. Cal. Model Patent Jury Instructions A.1, Rev. Aug. 2017 (updated Jan. 2018).*
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Yellow Highlight indicates changed or added language to a model instruction.

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STIPULATED INSTRUCTION NO. 2. RE PATENT AT ISSUE

~~{The court should show the jury the patent at issue and point out the parts including the specification, drawings and claims including the claims at issue.}~~

You have been given the patent at issue: U.S. Patent Number 8,677,494. The drawings of the patent are included on pages 7-16 of the patent. The specification consists of columns 1 through 21 at line 17. The patent claims are listed from column 21, line 18 through the end of column 22. The only claim that is at issue in this trial is claim 10.

N.D. Cal. Model Patent Jury Instructions A.2, Rev. Aug. 2017 (updated Jan. 2018).

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