

Exhibit 1

Pages 1 - 137

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

BEFORE THE HONORABLE WILLIAM H. ALSUP, JUDGE

FINJAN, INC.,)	
)	
Plaintiff,)	
)	
VS.)	NO. C 17-5659 WHA
)	
JUNIPER NETWORKS, INC.,)	
)	San Francisco, California
Defendant.)	
)	
)	

Tuesday, December 4, 2018

TRANSCRIPT OF PROCEEDINGS

APPEARANCES:

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Reported By: **BELLE BALL, CSR 8785, CRR, RDR**
Official Reporter, U.S. District Court

(Appearances continued, next page)

APPEARANCES, CONTINUED:

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ALAN HEINRICH, ESQ.
SHARON SONG, ESQ.
JOSHUA GLUCOFT, ESQ.**

Also Present:

**JULIE ANN MAR-SPINOLA
ANN TAYLOR**

1 **THE COURT:** All right. The ruling is this: First,
2 the transcript is going to come into evidence. That's a
3 separate point. But this -- the idea that this -- this --
4 this transcript is very relevant to the case. This is one of
5 the few things you lawyers have come up with that is relevant.

6 All right, so the transcript can come into evidence. And
7 the fact that it was recorded illegally or not, it's just too
8 bad. Too bad. The jury may not like that, but maybe they will
9 like it. I don't know. But that's evidence.

10 Okay. So, but the Cyphort and ATP appliance product is
11 out. O-U-T. No mention of that. It has so little probative
12 value, it is so much of a sideshow.

13 You all lawyers are going to get about four or five hours
14 each to present your case. You're not going to waste the
15 jury's time with Cyphort and ATP. Out. O-U-T. 403.

16 All right. Thank you. Now we come to the next one.
17 Motion to exclude evidence of outcomes from Finjan's prior
18 litigation.

19 Well, just a second. What -- tell me what it is you --
20 what is it that Juniper wants to exclude here?

21 **MS. CARSON:** So Your Honor, I'm going to hand this
22 off to our associate, Mister Wang.

23 **THE COURT:** Fine. But what is it you're specifically
24 trying to exclude?

25 **MR. WANG:** Kevin Wong. Good morning, Your Honor.

1 way to have the trial.

2 And here --

3 **THE COURT:** Well, if they start saying they are an
4 innovative company, then of course you get to say what the
5 truth is, assuming you can prove that it's not true.

6 **MR. KAGAN:** So we don't want to go around
7 affirmatively calling them names. That's not what we've ever
8 said we're going to do.

9 With regard to the recording, the issue is we start
10 getting into, then, a true sideshow. Why was the recording
11 made, what was the reason for it, what is the law --

12 **THE COURT:** That's a matter of proof, and I'm not
13 going to even get into it right -- your guy made maybe a goof.
14 Maybe he did the smart thing. I don't know. But he got
15 himself into this mix, and I'm not going to try to bail him
16 out by putting down ground rules. It's just -- they're going
17 to get up there and testify. They'll get -- people will
18 testify, and lay the foundation.

19 So I'm sorry; I'm not here to -- to put down ground --
20 because then you'll say they violated some ground rules. No.

21 That recording is one of the best pieces of evidence I've
22 seen. The rest of it is all bought and paid for by the
23 experts.

24 Next, motion to include evidence on non-infringing
25 alternative. What are we talking about here?

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