

Volume 1

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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

BEFORE THE HONORABLE WILLIAM H. ALSUP, JUDGE

FINJAN, INC.,)
)
 Plaintiff,)
)
 VS.)
)
 JUNIPER NETWORKS, INC.,)
)
 Defendant.)

No. C 17-5659 WHA

San Francisco, California
Monday, December 10, 2018

TRANSCRIPT OF PROCEEDINGS

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1 Monday - December 10, 2018

7:32 a.m.

2 P R O C E E D I N G S

3 ---000---

4 **THE COURT:** Good morning. We're here for trial.
5 We'll get started.

6 **THE CLERK:** Calling Civil Case Number 17-5659, Finjan,
7 Inc. versus Juniper Networks.

8 Will counsel please step forward and state your
9 appearances for the record.

10 **MR. ANDRE:** Good morning, Your Honor. Paul Andre
11 Andre for Finjan. And with me today is Lisa Kobialka, James
12 Hannah, and Cristina Martinez.

13 **THE COURT:** Welcome to all of you.

14 **MR. KAGAN:** Good morning, Your Honor. Jonathan Kagan,
15 of Irell & Manella, for defendant Juniper Networks. With me at
16 counsel table today are Rebecca Carson.

17 **MS. CARSON:** Good morning.

18 **MR. KAGAN:** Alan Heinrich.

19 **MR. HEINRICH:** Good morning.

20 **MR. KAGAN:** Josh Glucoft, and Casey Curran.

21 **MS. CURRAN:** Good morning.

22 **THE COURT:** Okay. I guess with all the lawyers here
23 this case must be worth millions of dollars. That's the way a
24 jury is going to see it. Always works that way.

25 All right. We're here for trial. We're going to call the

PROCEEDINGS

1 jury in in 30 minutes, get started. I want you to know, the
2 way I run the courtroom, we don't dawdle.

3 So what issues do you want to take up before we bring in
4 the potential jury?

5 **MR. KAGAN:** Your Honor, the first issue that the
6 defendant would like to raise regards to insufficiency or lack
7 of sufficiency of the offer of proof that Your Honor ordered to
8 be served at 5 o'clock on Friday.

9 The offer of proof was -- Mr. Heinrich can go into more
10 detail on this, but the offer of proof, which was on damages,
11 failed to include certain items such as the amount of damages
12 that Finjan is seeking in this case.

13 And, in addition, it included reference to evidence that
14 they were going to introduce to support its damages claim that
15 this Court expressly ordered excluded by the *Daubert* motion.

16 So, for example, they are seeking, as evidence to support
17 their damages claim, revenues for the SRX device by itself,
18 which this Court has already ordered is not an accused product
19 in this case.

20 So what they've done is continued to advance a defunct
21 theory to support damages. And they're still trying to hide
22 the ball in terms of what damages they're actually seeking and
23 what the basis is for the damages claim, which is why we
24 requested the offer of proof in the first place.

25 **THE COURT:** Okay. What do you say?

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