

# EXHIBIT 9

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.	)	
	)	
	)	

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Tuesday, December 4, 2018

**TRANSCRIPT OF PROCEEDINGS**

**APPEARANCES:**

For Plaintiff:

KRAMER LEVIN NAFTALIS & FRANKEL, LLP  
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Menlo Park, California 94025

**BY: PAUL ANDRE, ESQ.**  
**LISA KOBIALKA, ESQ.**  
**AUSTIN MANES, ESQ.**  
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For Defendant:

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**BY: REBECCA L. CARSON, ESQ.**  
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Reported By: **BELLE BALL, CSR 8785, CRR, RDR**  
Official Reporter, U.S. District Court

(Appearances continued, next page)

1 cross-examine him so skillfully that the jury will award  
2 \$70 million.

3 **MR. KAGAN:** Your Honor, given that they're stuck with  
4 a \$1.8 million base, I think that's unlikely.

5 **THE COURT:** Yeah, I think so, too. But I'm -- that's  
6 why I enjoy this. Because he's going to get maybe a shot,  
7 shot to try.

8 **MR. KAGAN:** Your Honor --

9 **THE COURT:** No, I'm not going to be talked out of  
10 this. You're not going to just get to the end of the case  
11 because I exclude their expert. There's other ways to prove  
12 damages. And I'm not prepared to say he doesn't have a  
13 damages case at all.

14 **MR. KAGAN:** I wasn't going to argue that. What I was  
15 going to ask, though, is if we could get a formal offer of  
16 proof --

17 **THE COURT:** He has. He went through each section  
18 that he wants to prove.

19 That's the offer of proof, right?

20 **MR. ANDRE:** Your Honor, it is for Mr. Arst. That's  
21 what he will testify to. And Your Honor is absolutely  
22 correct. We will put on a fact-based case.

23 I've tried several cases the last two days without a  
24 damages expert.

25 **THE COURT:** That's good. Actually, it heartens me to

1 left, the new guy came in, Ms. Gupta came in. She's going to  
2 be allowed.

3 Mr. Icasiano.

4 **MR. ANDRE:** Your Honor, they withdrew him this  
5 morning.

6 **MS. CURRAN:** That's correct.

7 **THE COURT:** So he's gone. Okay, documents on coming  
8 -- web invoices and all, is that now moot?

9 **MS. CURRAN:** Yes. We won't introduce iWeb invoices  
10 as (Inaudible) --

11 **THE COURT:** Is that moot? Make sure you --

12 **MR. ANDRE:** Yeah, the iWeb invoices are moot. The  
13 spreadsheets regarding the revenues are not moot.

14 **THE COURT:** Okay.

15 **MR. ANDRE:** We got an X Excel spreadsheet a couple  
16 days before our expert report was due. It was 17,000 pages  
17 long. And we had no discovery on it. We think that was a  
18 late disclosure of that spreadsheet, so we think that should  
19 be excluded.

20 **THE COURT:** Was it identified in the initial  
21 disclosures?

22 **MS. CURRAN:** Yes. So we produced two spreadsheets in  
23 the spring, for various time periods. In September, before  
24 they produced their expert report, we produced two more.

25 One of those spreadsheets simply added customer names to a

1 spreadsheet is that we had already produced, so that you could  
2 more accurately identify SRX devices used with Sky ATP.

3 The other specifically identified SRX devices used with  
4 free licenses, which Ms. Nagarajan had submitted a declaration  
5 on, but this provided the concrete evidence.

6 Their damages expert did not then go ahead and match up  
7 the SRX and Sky ATP revenues, anyhow. So although they were  
8 produced before their expert report was due, they ultimately  
9 didn't even use the additional information that those  
10 spreadsheets provided.

11 **THE COURT:** What do you say to that?

12 **MR. ANDRE:** They produced them I think three days  
13 before our expert report was due and they were 17,000 pages  
14 and we didn't know what it was. We couldn't make heads or  
15 tails of it. And they want to somehow divine this was giving  
16 you certain information that was relevant for this expert  
17 report.

18 **THE COURT:** But is it true that they gave you a  
19 shorter version of the same thing without the customer names  
20 earlier?

21 **MR. ANDRE:** No. They gave us some spreadsheets in  
22 spring, those spreadsheets are fine. The spreadsheets they  
23 added additional information on to, the ones that they did  
24 right before the expert reports in September are the ones we  
25 are moving to exclude.