

EXHIBIT 15

Pages 1 - 38

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.)
)
)
)
_____)

Thursday, November 29, 2018

TRANSCRIPT OF PROCEEDINGS

APPEARANCES:

For Plaintiff:

KRAMER LEVIN NAFTALIS & FRANKEL, LLP
990 Marsh Road
Menlo Park, California 94025
BY: PAUL ANDRE, ESQ.
LISA KOBIALKA, ESQ.
HANNAH LEE, ESQ.
YURIDIA CAIRE, ESQ.
KRISTOPHER B. KASTENS, ESQ.

For Defendant:

IRELL & MANELLA, LLP
840 Newport Center Drive
Suite 400
Newport Beach, California 92660
BY: REBECCA L. CARSON, ESQ.

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

(Appearances continued, next page)

1 one infringement -- that's one system.

2 **THE COURT:** That's not -- your guy's using numbers
3 that are SRX only.

4 **MS. KOBIALKA:** Well, that's actually not correct.

5 **THE COURT:** Well, then, we've been bamboozled.

6 **MS. KOBIALKA:** Yes.

7 **THE COURT:** We have been bamboozled by Juniper.

8 **MS. KOBIALKA:** Yes. Absolutely.

9 **THE COURT:** Then explain to me how we got bamboozled.

10 **MS. KOBIALKA:** They made the statement in their reply
11 brief that all we're asserting is SRX, itself. We've not
12 asserted that.

13 And throughout all of our pretrial filings which we've
14 filed and we have stipulated, the issues here in this case for
15 infringement -- and we are very specific -- is making, using,
16 selling, right, and offering for sale SRX with Sky ATP.

17 And then separately --

18 **THE COURT:** That's only \$1.8 million worth, right
19 there.

20 **MS. KOBIALKA:** It's not. It's \$142 million --

21 **THE COURT:** No, I'm telling you the numbers that they
22 have for SRX sold in combination with Sky ATP is \$1.8 million,
23 base.

24 **MS. KOBIALKA:** And so now you're only looking at part
25 of the infringement case, which is just the selling. What

1 about they make, use, and offer for sale? There's lots of
2 benefits in connection with respect to that.

3 We dispute that it's 1.8 --

4 **THE COURT:** They don't make -- they don't offer --
5 they don't -- they're not selling anything that infringes
6 unless it has Sky ATP as part of it. It has to be Sky ATP in
7 there, or you lose. That was your whole theory. That's what
8 you convinced me on, the first time. Now you're coming up
9 with a new theory.

10 **MS. KOBIALKA:** That's incorrect. Let's look at the
11 statute separately. And I'm going to be very clear.

12 You're only looking at one component of the infringement
13 statute, which is selling. And they're saying: Okay, the
14 value of the selling that component of that infringement is
15 just worth -- they're claim egg it's 1.8. We're telling you
16 that's incorrect. There's 142 -- over 142 million -- close to
17 \$143 million in sales in which this SRX is sold with Sky ATP.
18 It's sold. The complete system is sold.

19 Separate and apart from that, we have the fact that
20 Juniper makes and uses and offers for sale. And there's
21 significant benefits in connection with that infringement. And
22 that infringement goes to -- and that is detailed in great
23 detail both in Mr. Arst's report as well as Dr. Cole, includes
24 the fact that it's able to have the most up-to-date threat
25 intelligence.

1 So here you have this formerly router company that says:
2 I need to be relevant still in the marketplace, because routers
3 are being commoditized, by moving --

4 **THE COURT:** Well, offer for sale is not the same.
5 "Make, use or sell" is what the statute says.

6 **MS. KOBIALKA:** And "offer for sale."

7 **THE COURT:** Where does it say that?

8 **MS. KOBIALKA:** I believe it's in 271 --

9 **THE COURT:** Let's look that up right now.
10 That would be only for injunctive relief, in my opinion,
11 if -- an offer for sale. If it doesn't turn into a sale, how
12 can there be any damages?

13 **MS. KOBIALKA:** The benefits that Juniper gets for
14 making and using are significant to Juniper, in and of itself.
15 You can't just look at the revenues. And that's only a
16 component of the infringement here.

17 They, they build, they operate these systems. Dr. Cole's
18 explained that. And in fact, he cites to quite a few
19 documentation specific to Juniper, in which he says (As read):

20 "Showing that the results of Sky ATP are shared
21 throughout Juniper's threat-sharing ecosystem so its
22 threat intelligence is mostly up to date, once it's
23 identified, it's recorded in the look-up cache
24 (Phonetic) and widely propagated to stop similar
25 attacks in the future, the shared environment ensures