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15 FINJAN, INC.

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

19 FINJAN, INC., a Delaware Corporation,

20 Plaintiff,

21 v.

22 JUNIPER NETWORKS, INC., a Delaware
23 Corporation,

24 Defendant.

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

**PLAINTIFF FINJAN, INC.'S NOTICE TO
THE COURT**

NOTICE TO THE COURT

Pursuant to the Court's January 2, 2019, Post-Trial Order (Dkt. No. 348), Finjan hereby advises the Court that Juniper's equitable defenses and Section 101 defenses are not moot with respect to Claim 10 of U.S. Patent No. 8,677,494 ("494 Patent"), as this claim is still at issue for Juniper ATP Appliance product, which the Court specifically excluded from the first showdown procedure. See Dkt. No. 85 at 4-5 ("This order ... further agrees that ATP Appliance cannot in fairness be included in early summary judgment procedure already well underway — although Finjan may of course include ATP Appliance in subsequent rounds of the early summary judgment procedure going forward.")

In regards to the status of the second showdown procedure, the second showdown should be stayed if the Court grants Finjan a Judgment as a Matter of Law ("JMOL") on Juniper's infringement of Claim 10 of the '494 Patent, as the issue of damages should first be properly held at trial. Similarly, the second showdown should be stayed if the Court grants Finjan's request for a new trial on the '494 Patent, so the issues from this case can first be resolved at trial before starting the second showdown. Finally, the entire case should be stayed pending appeal if the Court does not grant JMOL or a new trial for Finjan, but certifies issues from the first showdown procedure as final and ripe for interlocutory appeal.

Respectfully submitted,

Dated: January 10, 2019

By: /s/ Lisa Kobialka

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