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15
16 **UNITED STATES DISTRICT COURT**
17 **NORTHERN DISTRICT OF CALIFORNIA**
18 **SAN FRANCISCO DIVISION**

19	FINJAN, INC., a Delaware Corporation,)	Case No. 3:17-cv-05659-WHA
20	Plaintiff,)	DEFENDANT JUNIPER NETWORKS, INC.'S MOTION FOR SUMMARY JUDGMENT REGARDING CLAIM 9 OF U.S. PATENT NO. 6,804,780
21	vs.)	
22	JUNIPER NETWORKS, INC., a Delaware)	
23	Corporation,)	
24	Defendant.)	

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1 **NOTICE OF MOTION**

2 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

3 PLEASE TAKE NOTICE that on May 2, 2019, at 8:00 a.m., or as soon thereafter as the
4 matter may be heard, in Courtroom 12, 19th Floor, of the San Francisco Courthouse, 450 Golden
5 Gate Avenue, San Francisco, California 94102, before the Honorable William Alsup, Defendant
6 Juniper Networks, Inc. (“Juniper”) will and hereby does move for an order finding that claim 9 of
7 U.S. Patent No. 6,804,780 (“Claim 9” of “the ’780 Patent”) is unpatentable under 35 U.S.C. § 101,
8 that Juniper’s accused products do not infringe Claim 9, and that any damages available to plaintiff
9 Finjan, Inc. (“Finjan”) are limited under 35 U.S.C. § 287. This motion is based on: this Notice of
10 Motion; the Memorandum of Points and Authorities below; the Declaration of Rebecca Carson and
11 exhibits attached thereto; the Declaration of Dr. Aviel D. Rubin attached hereto; the Declaration of
12 Frank Jas attached hereto; all documents in the Court’s file, including the Declaration of Yuly
13 Nerida Becerra Tenorio; and such other written or oral argument as may be presented at or before
14 the time this motion is heard by the Court.

15 **STATEMENT OF RELIEF REQUESTED**

16 Juniper seeks an order holding that Juniper does not infringe Claim 9 based on any alleged
17 making, using, selling, offering to sell, or importing SRX Series Services Gateway (“SRX”)
18 products, the Sky Advanced Threat Prevention (“Sky ATP”) service, or ATP Appliance products
19 (formerly sold under the Cyphort brand), individually or in combination with each other; that Claim
20 9 of the ’780 Patent is invalid as directed to unpatentable subject matter under 35 U.S.C. § 101; that
21 damages for any potential infringement of Claim 9 by Juniper’s SRX and Sky ATP products are
22 limited under 35 U.S.C. § 287 to those accrued based on acts of infringement occurring after
23 September 29, 2017 (the filing of the complaint in this matter); and that no damages for any potential
24 infringement of Claim 9 by the ATP Appliance are owed on account of Finjan’s failure to comply
25 with 35 U.S.C. § 287 until after November 6, 2017 (the expiration date of the ’780 Patent).

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STATEMENT OF ISSUES TO BE DECIDED¹

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1. Whether Juniper’s SRX products do not infringe Claim 9.
2. Whether Juniper’s Sky ATP service does not infringe Claim 9.
3. Whether Juniper’s ATP Appliance products do not infringe Claim 9.
4. Whether the combination of Juniper’s SRX products with the Sky ATP service or ATP Appliance products do not infringe Claim 9.
5. Whether Claim 9 is invalid under 35 U.S.C. § 101.
6. Whether damages for any potential infringement of Claim 9 by Juniper’s SRX product and Sky ATP service are limited under 35 U.S.C. § 287 to those accrued after September 29, 2017 (the filing of the complaint in this matter).
7. Whether the damages for any potential infringement of Claim 9 by Juniper’s ATP Appliance product are foreclosed on account of Finjan’s failure to comply with 35 U.S.C. § 287 until after November 6, 2017 (the expiration date of the ’780 Patent).

¹ Claim 9 of the ’780 Patent is also invalid under 35 U.S.C. §§ 102 and 103 in view of additional prior art not discussed herein but which Juniper timely identified in its invalidity contentions under P.L.R. 3-3. Moreover, the fundamental differences between Juniper’s accused products and the ’780 Patent may provide several additional non-infringement arguments beyond those specifically addressed in this motion. If there is a trial on Claim 9, Juniper may make other invalidity or non-infringement arguments not specifically addressed in this motion. Juniper may also raise one or more affirmative defenses not addressed specifically in this motion.

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TABLE OF CONTENTS

	<u>Page</u>
1	
2	
3	I. INTRODUCTION..... 1
4	II. BACKGROUND..... 2
5	III. CLAIM CONSTRUCTION 5
6	A. Previously Construed Term..... 5
7	B. Additional Term For Construction..... 5
8	IV. JUNIPER DOES NOT INFRINGE CLAIM 9 OF THE '780 PATENT 8
9	A. Legal Standard..... 8
10	B. The SRX Does Not Infringe Claim 9..... 8
11	C. Sky ATP Does Not Infringe Claim 9..... 9
12	1. Sky ATP Does Not Meet The “Hashing” Limitation..... 10
13	2. Sky ATP Does Not Have an “ID Generator” That “Fetches” Software Components..... 11
14	D. ATP Appliance Does Not Infringe Claim 9..... 12
15	1. ATP Appliance Does Not Have An “ID Generator” That “Fetches.” 13
16	2. ATP Appliance Does Not Meet The “Hashing” Limitation..... 14
17	E. Combining Sky ATP Or ATP Appliance With SRX Does Not Resolve The Deficiencies In Finjan’s Infringement Claims..... 15
18	F. The Accused Products Do Not Infringe Under The Doctrine Of Equivalence..... 16
19	
20	
21	V. CLAIM 9 IS UNPATENTABLE UNDER 35 U.S.C. § 101 17
22	A. Claim 9 Is Directed Towards An Abstract Idea..... 18
23	B. Claim 9 Does Not Have A Transformative Inventive Concept..... 20
24	VI. FINJAN’S FAILURE TO COMPLY WITH 35 U.S.C. § 287 LIMITS DAMAGES 23
25	A. Finjan Failed To Provide Constructive Notice..... 24
26	B. Finjan Failed To Provide Actual Notice..... 25
27	VII. CONCLUSION 25
28	

REDACTED VERSION OF DOCUMENT SOUGHT TO BE SEALED

TABLE OF AUTHORITIES

	Page(s)
Cases	
<i>Alice Corp. Pty. Ltd. v. CLS Bank Int'l</i> , 134 S. Ct. 2347 (2014)	17, 18, 19, 20
<i>Amsted Indus., Inc. v. Buckeye Steel Castings Co.</i> , 24 F.3d 178 (Fed. Cir. 1994).....	25
<i>Apple, Inc. v. Ameranth, Inc.</i> , 842 F.3d 1229 (Fed. Cir. 2016).....	18
<i>Arctic Cat Inc. v. Bombardier Recreational Prod. Inc.</i> , 876 F.3d 1350 (Fed. Cir. 2017).....	23, 24
<i>Aventis Pharm. Inc. v. Amino Chem. Ltd.</i> , 715 F.3d 1363 (Fed. Cir. 2013).....	5
<i>Becton, Dickinson & Co. v. Tyco Healthcare Grp., LP</i> , 616 F.3d 1249 (Fed. Cir. 2010).....	12
<i>Berkheimer v. HP Inc.</i> , 2018 WL 2437140 (Fed. Cir. May 31, 2018).....	17
<i>Blue Spike LLC v. Google Inc.</i> , 2015 WL 5260506 (N.D. Cal. Sept. 8, 2015).....	21
<i>buySAFE, Inc. v. Google, Inc.</i> , 765 F.3d 1350 (Fed. Cir. 2014).....	21
<i>Cal. Inst. of Tech. v. Hughes Commc'ns Inc.</i> , 59 F. Supp. 3d 974 (C.D. Cal. 2014).....	18
<i>Celotex Corp. v. Catrett</i> , 477 U.S. 317 (1986)	8
<i>Cephalon, Inc. v. Abraxis Bioscience, LLC</i> , 618 Fed. Appx. 663 (Fed. Cir. 2015)	8
<i>Content Extraction & Transmission LLC v. Wells Fargo Bank, Nat'l Ass'n</i> , 776 F.3d 1343 (Fed. Cir. 2014).....	19
<i>Creo Products, Inc. v. Presstek, Inc.</i> , 305 F.3d 1337 (Fed. Cir. 2002).....	16
<i>CyberFone Sys. LLC v. Lexmark Int'l, Inc.</i> , 137 F. Supp. 3d 648 (D. Del. 2015)	21

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