

# EXHIBIT 11

MICHAEL D. MITZENMACHER Highly Confidential  
 FINJAN V. JUNIPER NETWORKS

July 03, 2018  
 5-8

<p style="text-align: right;">Page 5</p> <p>1 Networks.</p> <p>2 MS. HEDVAT: Shannon Hedvat from</p> <p>3 Kramer Levin Naftalis &amp; Frankel on behalf of</p> <p>4 the Plaintiff, Finjan, Inc., and the</p> <p>5 witness.</p> <p>6 * * *</p> <p>7 MICHAEL D. MITZENMACHER, a</p> <p>8 witness called for examination by counsel</p> <p>9 for the Defendant, having been</p> <p>10 satisfactorily identified by the reporter,</p> <p>11 being first sworn by the Notary Public, was</p> <p>12 examined and testified as follows:</p> <p>13 * * *</p> <p>14 EXAMINATION</p> <p>15 BY MS. CARSON:</p> <p>16 Q. Good morning. Could you please state your</p> <p>17 name and spell it for the record.</p> <p>18 A. Michael Mitzenmacher, M-I-C-H-A-E-L.</p> <p>19 Mitzenmacher is M-I-T-Z-E-N-M-A-C-H-E-R.</p> <p>20 Q. Do you prefer to be referred to by doctor?</p> <p>21 A. Whatever is convenience for you, I suppose.</p> <p>22 Q. Okay. You've been deposed before, correct?</p> <p>23 A. Yes.</p> <p>24 Q. Do you know how many times?</p>	<p style="text-align: right;">Page 7</p> <p>1 A. Not that I can recall. Again, it was</p> <p>2 meeting and I went over various documents.</p> <p>3 Q. When were you retained for this matter?</p> <p>4 A. I would have to go back and look. I mean,</p> <p>5 they suggested this was upcoming some time</p> <p>6 ago but I don't think I was officially</p> <p>7 retained until I think it was just a few</p> <p>8 months ago or when I first put in the hours.</p> <p>9 Q. And you're being paid for the time spent on</p> <p>10 this case, correct?</p> <p>11 MS. HEDVAT: Objection, form.</p> <p>12 A. Yes.</p> <p>13 Q. How much are you being paid?</p> <p>14 A. \$750 an hour.</p> <p>15 Q. Is that your standard rate?</p> <p>16 MS. HEDVAT: Objection, form.</p> <p>17 A. Yes. That's within my standard rates.</p> <p>18 Q. What do you mean by that's within your</p> <p>19 standard rates?</p> <p>20 A. Some clients vary by small amounts, but 750</p> <p>21 is the rate I've been charging Finjan for a</p> <p>22 while and I've kept it at that rate.</p> <p>23 Q. What is the range of standard rates you</p> <p>24 charge clients?</p>
<p style="text-align: right;">Page 6</p> <p>1 A. No.</p> <p>2 Q. Approximately?</p> <p>3 A. Probably more than 25 at this point.</p> <p>4 Q. You understand you've just taken an oath to</p> <p>5 tell the truth?</p> <p>6 A. Yes.</p> <p>7 Q. And you understand that that oath has the</p> <p>8 same force and effect as if given in a court</p> <p>9 of law before a judge or a jury, correct?</p> <p>10 A. I would assume so, sure.</p> <p>11 Q. Is there any reason you cannot give me your</p> <p>12 best testimony today?</p> <p>13 A. Not that I am aware of.</p> <p>14 Q. What did you do to prepare for your</p> <p>15 deposition today?</p> <p>16 A. I read over some of the various documents,</p> <p>17 in particular my report. I met briefly with</p> <p>18 counsel yesterday.</p> <p>19 Q. Which counsel?</p> <p>20 A. Counsel here, Shannon.</p> <p>21 Q. Did you do anything else?</p> <p>22 MS. HEDVAT: I caution the witness</p> <p>23 to not divulge anything that's subject to</p> <p>24 privilege.</p>	<p style="text-align: right;">Page 8</p> <p>1 MS. HEDVAT: Objection, form.</p> <p>2 A. I believe it's currently at \$750 an hour to</p> <p>3 \$875 an hour.</p> <p>4 Q. Do you know how much time you've spent on</p> <p>5 this case?</p> <p>6 A. Not exactly.</p> <p>7 Q. Do you know approximately how much time</p> <p>8 you've spent on this case?</p> <p>9 A. I would have to go back and look but it's</p> <p>10 probably nearing 100 hours.</p> <p>11 Q. So you've spent somewhere in the range of</p> <p>12 nearing ten hours in the past couple months</p> <p>13 on this case?</p> <p>14 MS. HEDVAT: Objection, form,</p> <p>15 misstates testimony.</p> <p>16 A. Yeah. I'd have to go back and check but my</p> <p>17 guess is it's more than 50, less than 150,</p> <p>18 so somewhere within that range.</p> <p>19 Q. You've been an expert for Finjan before,</p> <p>20 correct?</p> <p>21 A. Yes.</p> <p>22 Q. In how many matters?</p> <p>23 A. I guess I'd have to go back and count. I've</p> <p>24 created a sheet of cases in the last five</p>



<p style="text-align: right;">Page 37</p> <p>1 A. Yes.</p> <p>2 Q. And that hashing function existed well</p> <p>3 before the '780 Patent as well, correct?</p> <p>4 MS. HEDVAT: Objection, form.</p> <p>5 A. I would have to say that I would have to go</p> <p>6 back and look up the dates but I believe</p> <p>7 that might be true.</p> <p>8 Q. Within the context of Claim 1 of the '780</p> <p>9 Patent, is it limited to any particular</p> <p>10 hashing function?</p> <p>11 MS. HEDVAT: Objection, form.</p> <p>12 A. Again, when we discuss limitations, I'm</p> <p>13 aware that sounds more like validity</p> <p>14 invalidity issues than infringement issues.</p> <p>15 I've been focused on infringement issues,</p> <p>16 like the hash functions that were being used</p> <p>17 in the context as you've pointed out. Hash</p> <p>18 functions like MD5 and SHA-256 that arise in</p> <p>19 my report are known hash functions. I</p> <p>20 don't -- again, I haven't considered what</p> <p>21 would require some sort of specific</p> <p>22 limitations on the possible range of hashing</p> <p>23 functions. That would be something I'd have</p> <p>24 to think more about.</p>	<p style="text-align: right;">Page 39</p> <p>1 been an MD5, a SHA-256? That didn't matter?</p> <p>2 Any type of hashing function in your</p> <p>3 infringement analysis would have satisfied</p> <p>4 the claim; is that fair?</p> <p>5 MS. HEDVAT: Objection, form,</p> <p>6 misstates testimony.</p> <p>7 A. I don't think that's what I said. What I</p> <p>8 said is when I look at infringement, I look</p> <p>9 for things. The claim element calls for a</p> <p>10 hashing function so I would look for a</p> <p>11 hashing function. Here the sort of hashing</p> <p>12 functions that are being used are sort of</p> <p>13 well-known hashing functions, including MD5,</p> <p>14 SHA-256 or combinations thereof, and so all</p> <p>15 of those clearly fit within the standards as</p> <p>16 you pointed out. They're sort of known hash</p> <p>17 functions.</p> <p>18 So to the extent that I dealt with</p> <p>19 issues regarding limitations, I believe it's</p> <p>20 discussed in paragraph 39 that there was, I</p> <p>21 think, a response to some of the comments by</p> <p>22 Rubin but I don't think there are</p> <p>23 limitations of the order that he described.</p> <p>24 Q. When you were performing your infringement</p>
<p style="text-align: right;">Page 38</p> <p>1 Q. You opined on claim construction issues in</p> <p>2 this case, correct?</p> <p>3 A. Yes.</p> <p>4 Q. And opining on the meaning of the claims,</p> <p>5 did you understand that hashing function was</p> <p>6 limited to any particular type of hashing</p> <p>7 function?</p> <p>8 MS. HEDVAT: Objection, form.</p> <p>9 A. So I believe in paragraphs 39 to 41 is where</p> <p>10 the issue of claim constructions related to</p> <p>11 hash functions arise. I certainly discuss</p> <p>12 things that are not limitations. Again in</p> <p>13 the context I think of paragraph 39 in</p> <p>14 particular, whether there might be other</p> <p>15 limitations, you know, again, I don't see</p> <p>16 anything specific in the claim language and</p> <p>17 I can't recall anything in the specification</p> <p>18 if there are such limitations, I don't think</p> <p>19 they're affected by infringement analysis.</p> <p>20 Q. So in so far as you were doing your</p> <p>21 infringement analysis, you just checked to</p> <p>22 see if the Juniper products performed a</p> <p>23 hashing function, and there wasn't anything</p> <p>24 more specific about that so it could have</p>	<p style="text-align: right;">Page 40</p> <p>1 analysis, did you have an understanding as</p> <p>2 to whether Claim 1 requires that you fetch</p> <p>3 the software components identified by the</p> <p>4 one or more references before you perform a</p> <p>5 hashing function?</p> <p>6 MS. HEDVAT: Objection, form.</p> <p>7 A. I think the claim language says that you</p> <p>8 perform a hashing function on the</p> <p>9 Downloadable and the fetch software</p> <p>10 components to generate a Downloadable ID.</p> <p>11 So that was the phrasing and understanding</p> <p>12 used in my analysis. There are certainly</p> <p>13 ways that you could perform a hashing</p> <p>14 function on the Downloadable and the fetch</p> <p>15 software components that would have</p> <p>16 different tempo considerations depending on</p> <p>17 the structure of the hashing function and</p> <p>18 the timing of the system.</p> <p>19 Q. So when you were performing your</p> <p>20 infringement analysis, was it your</p> <p>21 understanding that a system that started</p> <p>22 performing a hashing function before it</p> <p>23 completed the fetching element could</p> <p>24 infringe?</p>



<p style="text-align: right;">Page 41</p> <p>1 MS. HEDVAT: Objection, form.</p> <p>2 A. Certainly you were required to perform the</p> <p>3 hashing function on the Downloadable and the</p> <p>4 fetch software components to generate the</p> <p>5 Downloadable ID. The actual timing of when</p> <p>6 various parts of that operation may occur I</p> <p>7 don't believe is specified or a requirement</p> <p>8 in the claim.</p> <p>9 Q. Is there anything in Claim 1 that recites a</p> <p>10 requirement that you have to store the</p> <p>11 Downloadable ID?</p> <p>12 A. Do you mind if I look at the patent?</p> <p>13 Q. Sure.</p> <p>14 (US Patent No. 6,804,780 marked</p> <p>15 Exhibit No. 1038 for Identification.)</p> <p>16 Q. The patent's been marked as Exhibit 1038.</p> <p>17 A. I'd say that may be a legal question. I</p> <p>18 don't see any specific language in the claim</p> <p>19 as I look at now referring to restoring,</p> <p>20 but, again, when I was looking from the</p> <p>21 aspect of infringement, as I believe I</p> <p>22 mentioned in the declaration, in this case</p> <p>23 the Downloadable ID is stored and typically</p> <p>24 that would be a use you would generate the</p>	<p style="text-align: right;">Page 43</p> <p>1 the requirements of Claim 1 so I didn't</p> <p>2 focus on when those specific dates were for</p> <p>3 for that type of processing in my analysis.</p> <p>4 Q. Does anything in Claim 1 limit it to the</p> <p>5 context of dynamic analysis?</p> <p>6 MS. HEDVAT: Objection, form.</p> <p>7 A. So can you clarify what you mean by dynamic</p> <p>8 analysis in this context?</p> <p>9 Q. Does dynamic analysis have a meaning to you</p> <p>10 as a network security expert?</p> <p>11 A. I would say an issue is that dynamic</p> <p>12 analysis is a general enough term that it's</p> <p>13 used in multiple contexts, so that's why I</p> <p>14 asked for the clarification in that it can</p> <p>15 mean different things depending on the</p> <p>16 setting even within the limited confines of</p> <p>17 network security. So that's why I asked if</p> <p>18 you could clarify what you mean by dynamic</p> <p>19 analysis in this context.</p> <p>20 Q. So when someone says to you "dynamic</p> <p>21 analysis" in the context of computer</p> <p>22 security, can you provide me with what that</p> <p>23 means to you?</p> <p>24 MS. HEDVAT: Objection, form, asked</p>
<p style="text-align: right;">Page 42</p> <p>1 Downloadable ID and store it for later use,</p> <p>2 but I don't see any specific language.</p> <p>3 Whether that was implicit might be a legal</p> <p>4 question but I don't think it would affect</p> <p>5 my legal analysis since it's stored in this</p> <p>6 case.</p> <p>7 Q. Prior to the '780 Patent it was known you</p> <p>8 could hash an executable file, correct?</p> <p>9 MS. HEDVAT: Objection, form.</p> <p>10 A. I'd say generally it was known that you</p> <p>11 could hash data in various forms which would</p> <p>12 include potentially a single executable</p> <p>13 file.</p> <p>14 Q. Is it fair to say that prior to the '780</p> <p>15 Patent one method of virus detection was to</p> <p>16 hash the file and compare the hash to a list</p> <p>17 of known hashes that were malware?</p> <p>18 MS. HEDVAT: Objection, form.</p> <p>19 A. So I'd say that may have been an approach</p> <p>20 used for malware detection. I would say the</p> <p>21 exact timing of when the hashing of single</p> <p>22 files for any sort of malware detection when</p> <p>23 that started, I'd have to go back and look</p> <p>24 specifically. Again, that's different than</p>	<p style="text-align: right;">Page 44</p> <p>1 and answered.</p> <p>2 A. Again, it can mean different things</p> <p>3 depending on the context. I could provide</p> <p>4 one possible method or way in which it's</p> <p>5 used but that would not be limiting.</p> <p>6 Q. Sure. Go ahead.</p> <p>7 A. Okay. So one way dynamic analysis would be</p> <p>8 used would be to say examine a running</p> <p>9 program that a static analysis in that case</p> <p>10 would be to take a code object, say in its</p> <p>11 binary form, and simply examine the actual</p> <p>12 binary without examining it without running</p> <p>13 their functioning, whereas a dynamic</p> <p>14 analysis would be not just simply examining</p> <p>15 the code as a static object but watching it</p> <p>16 perform as it runs. I'd like to specify</p> <p>17 that that's just one way in which I think</p> <p>18 the term is used.</p> <p>19 Q. Understood. So using what you've just</p> <p>20 described as the meaning for dynamic</p> <p>21 analysis, is there anything in Claim 1 that</p> <p>22 limits the claim to dynamic analysis</p> <p>23 context?</p> <p>24 MS. HEDVAT: Objection, form,</p>



<p style="text-align: right;">Page 65</p> <p>1 sort of at a minimum what I can think of off</p> <p>2 the top of my head.</p> <p>3 Q. Does a Microsoft Word document that does not</p> <p>4 contain a macro have executable code?</p> <p>5 A. In the setting that I've described, I would</p> <p>6 interpret it that way, although I don't</p> <p>7 think that affects or impacts my</p> <p>8 infringement analysis.</p> <p>9 Q. Is it your understanding that something is a</p> <p>10 Downloadable so long as the file type could</p> <p>11 contain executable code?</p> <p>12 A. I think I would say that issue doesn't arise</p> <p>13 or doesn't come up in my infringement</p> <p>14 analysis so I may have to consider it more</p> <p>15 carefully. And I believe that relates to</p> <p>16 the answers I sort of previously provided.</p> <p>17 Again, I believe there is a default in the</p> <p>18 setting of security. The appropriate action</p> <p>19 is to treat everything as a danger. And, in</p> <p>20 particular, one of the issues is sometimes</p> <p>21 we don't know in advance or recognize what</p> <p>22 the dangers are. So, again, from my</p> <p>23 standpoint, I would view such document</p> <p>24 files, even if they didn't contain macros,</p>	<p style="text-align: right;">Page 67</p> <p>1 care in that a text file could conceivably</p> <p>2 contain computer code so there may be</p> <p>3 context where if the text file can be used</p> <p>4 or treated as an executable application that</p> <p>5 you may have to be aware of it, but in a</p> <p>6 typical instance or setting, you would not</p> <p>7 necessarily think of a text file as a</p> <p>8 Downloadable.</p> <p>9 Q. Can you think of any other types of files</p> <p>10 that do not provide instructions to a</p> <p>11 computer?</p> <p>12 A. Something typically that I think of? Files.</p> <p>13 They're either text files or they're</p> <p>14 associated with a program or a binary</p> <p>15 themselves. So I'm trying to expand or go</p> <p>16 through the list of sorts of files that</p> <p>17 would not be considered one of those two</p> <p>18 things.</p> <p>19 I think there are variations on text</p> <p>20 files. For instance, you can look at</p> <p>21 compressed forms of text files, such as JSON</p> <p>22 files which would fall into sort of the same</p> <p>23 class. I'd say also, depending on the</p> <p>24 context, there would be various sorts of</p>
<p style="text-align: right;">Page 66</p> <p>1 as being Downloadables in that they provide</p> <p>2 instructions to the computers and some of</p> <p>3 those instructions may be -- may yield a</p> <p>4 threat that we don't understand in advance.</p> <p>5 Q. Is there any type of file that does not</p> <p>6 provide instructions to the computer?</p> <p>7 MS. HEDVAT: Objection, form.</p> <p>8 A. Yes. I would say in various contexts you</p> <p>9 would think of documents that do not provide</p> <p>10 instructions to the computer.</p> <p>11 Q. Like what?</p> <p>12 A. So, again, I think we've talked about</p> <p>13 contexts where you would not think of text</p> <p>14 files as providing instructions. You may</p> <p>15 have to take care in other situations where</p> <p>16 they might lead to executable instructions</p> <p>17 that you'd have to be aware of them, but</p> <p>18 they're definitely context or situations</p> <p>19 where I don't think you'd view text files as</p> <p>20 threats or as possible executables.</p> <p>21 Q. So would a text file be a Downloadable</p> <p>22 within the meaning of Claim 1?</p> <p>23 A. As I answered before, I would say typically</p> <p>24 no, although again you may have to have some</p>	<p style="text-align: right;">Page 68</p> <p>1 data files where, again, typically you might</p> <p>2 not consider them executables so they would</p> <p>3 not be Downloadables, although I'd provide</p> <p>4 the same caveat I provide with text files</p> <p>5 which is that the separation between data</p> <p>6 and instructions in computer systems is a</p> <p>7 tentative one that can depend on context.</p> <p>8 Q. Can you think of any type of file that would</p> <p>9 never be considered a Downloadable?</p> <p>10 MS. HEDVAT: Objection, form.</p> <p>11 A. I would say that's context dependent.</p> <p>12 Again, in most instances there are various</p> <p>13 forms of text files or other data files that</p> <p>14 might have, for instance, a different</p> <p>15 extension but would correspond to data files</p> <p>16 that might contain text or binary</p> <p>17 information that you would typically not</p> <p>18 consider to be Downloadables. As always,</p> <p>19 you need to consider or examine the context</p> <p>20 to see how they might be being used.</p> <p>21 Q. So I'm just trying to figure out whether</p> <p>22 there's anything -- regardless of context,</p> <p>23 right, is there anything that you're willing</p> <p>24 to say would never be a Downloadable? Any</p>



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