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13 JUNIPER NETWORKS, INC.

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

17	FINJAN, INC., a Delaware Corporation,)	Case No. 3:17-cv-05659-WHA
18	Plaintiff,)	DEFENDANT JUNIPER NETWORKS, INC.'S OPPOSITION TO MOTION FOR SUMMARY JUDGMENT REGARDING CLAIM 1 OF U.S. PATENT NO. 8,141,154
19	vs.)	
20	JUNIPER NETWORKS, INC., a Delaware)	
21	Corporation,)	
22	Defendant.)	

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REDACTED VERSION OF DOCUMENT SOUGHT TO BE SEALED**I. INTRODUCTION**

1 This Court should deny Finjan's motion for summary judgment. But the Court likely knew
2 that before it even started reading this opposition. Parties seeking summary judgment generally
3 provide a clear, concise legal theory based on a defined set of undisputed facts. Finjan, however,
4 did not do this; its motion presented a variety of confusing and facially deficient legal theories based
5 on a convoluted (and easily disputed) set of facts. Why? Because Finjan knows full well that it is
6 not entitled to summary judgment on Claim 1 of the '154 Patent, and it is simply trying to again use
7 this Court's "showdown" procedure (improperly) to get claims involving Juniper's SRX products
8 before a jury on an expedited basis. Indeed, Finjan cares so little about prevailing on this motion
9 that it did not even bother to have its infringement expert—Dr. Michael Mitzenmacher (or his
10 staff)—review the computer containing Juniper's source code while preparing his declaration on the
11 '154 Patent. This Court should reject Finjan's abuse of the "showdown" procedure.

12
13 As this Court may recall, during the first round of summary judgment motions Finjan
14 advanced a clear theory of infringement (albeit one the jury ultimately rejected). By being clear,
15 though, Finjan revealed that its infringement arguments are directed against Juniper's Sky ATP
16 product (alone or in combination with the SRX) but not the SRX alone. This strategy thus created
17 a major issue for Finjan, as revenues for Sky ATP are minimal. Finjan tried to overcome this
18 problem by sneaking revenue information for the SRX alone into the case through its damages
19 expert and evidence. This Court was not fooled, however; first it struck Finjan's damages expert,
20 and later it ruled Finjan was not entitled to any damages.

21 This time, Finjan is using a different tactic to bring SRX-alone evidence into the case. Rather
22 than presenting a clear infringement case (which would reveal that Finjan has no case against any
23 of the accused products, much less the SRX alone), Finjan has presented an infringement theory so
24 convoluted that—it hopes—the Court will simply allow it to present an SRX-alone theory to a jury.
25 This cynical strategy should fail. Not only is it an abuse of the summary judgment process, but (as
26 discussed below) the undisputed evidence establishes that Finjan cannot establish a plausible case
27 of infringement against the SRX alone.

28 Moreover, when one is finally able to divine Finjan's infringement theories, it becomes clear

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