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10 FINJAN, INC.

11 **IN THE UNITED STATES DISTRICT COURT**  
12 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
13 **SAN FRANCISCO DIVISION**  
14

15 FINJAN, INC., a Delaware Corporation,

16 Plaintiff,

17 v.

18 JUNIPER NETWORKS, INC., a Delaware  
19 Corporation,

20 Defendant.  
21  
22  
23  
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Case No.: 3:17-cv-05659-WHA

**DECLARATION OF DR. MICHAEL  
MITZENMACHER IN SUPPORT OF  
PLAINTIFF FINJAN, INC.'S OPPOSITION  
TO DEFENDANT JUNIPER NETWORKS,  
INC.'S SECOND MOTION FOR SUMMARY  
JUDGMENT**

Date: May 2, 2019  
Time: 8:00 a.m.  
Courtroom: Courtroom 12, 19<sup>th</sup> Floor  
Before: Hon. William Alsup

**REDACTED VERSION OF DOCUMENT SOUGHT TO BE SEALED**

1 I, Michael Mitzenmacher, hereby declare that:

2 1. I have been asked by Plaintiff Finjan, Inc. ("Finjan") to testify as an expert witness in  
3 the above referenced action. As part of my work in this action, I have been asked by Finjan to provide  
4 a declaration as to if Defendant Juniper Networks, Inc. ("Juniper" or "Defendant") infringes Claim 9 of  
5 U.S. Patent No. 6,804,780 (the "'780 Patent"). I expect to testify at trial in these actions regarding the  
6 opinions set forth in this declaration, as well as on any other issues for which I have submitted or will  
7 submit an expert report in this action. I relied on the documents cited herein, including the '780 Patent,  
8 the file history of the '780 Patent, the source code review computer, source code printouts, the  
9 deposition transcripts of Juniper's employees and Dr. Rubin, as well as exhibits thereto, Finjan's  
10 Infringement Contentions, and Juniper's Discovery Responses.

11 **I. BACKGROUND, EXPERIENCE AND QUALIFICATIONS**

12 2. My background is set forth in my previous declarations submitted in this case. Dkt.  
13 Nos. 127-6, 368-6.

14 3. My rate of compensation for my work in this case is \$750 per hour plus any direct  
15 expenses incurred. My compensation is based solely on the amount of time that I devote to activity  
16 related to this case and is in no way affected by any opinions that I render. I receive no other  
17 compensation from work on this action. My compensation is not dependent on the outcome of this  
18 matter.

19 **II. LEGAL STANDARDS**

20 4. Counsel for Finjan has informed me of the following legal standards that I have used as  
21 a framework in forming my opinions contained herein.

22 5. My understanding of the framework for direct infringement and doctrine of equivalents  
23 is set forth in my previous declaration. Dkt. 127-6.

24 6. My opinions below are from the perspective of a person of ordinary skill in the art  
25 (POSITA). My opinion on who would be a person of a person of ordinary skill in the art is set forth in  
26 my previous declaration (Dkt. 127-6). I note that Dr. Rubin has suggested slightly more experience  
27 and/or education for a POSITA in his declaration (Dkt. 370-6, Rubin Decl., ¶ 9), and I believe my  
28 opinions herein would be the same under either definition.

### III. SUMMARY OF DECLARATION

7. I have been asked by counsel for Finjan to consider if Juniper infringes Claim 9 of the '780 Patent and to consider the opinions set forth by Juniper's expert, Dr. Aviel Rubin, in support of Juniper's Motion for Summary Judgment (Dkt. 370-6, "Rubin Decl."). In particular, I have been asked by counsel for Finjan to consider whether the ATP Appliance infringes Claim 9 of the '780 Patent. I have also been asked to consider the state of the art and claim construction issues in Dr. Rubin's declaration (Dkt. 370-6). I have reviewed Dr. Rubin's declarations for Claims 1 and 9 of '780 Patent submitted in this case. I note that the declarations have many of the same arguments. Thus, I also incorporate my rebuttals in my previous declaration (Dkt. 127-6) to the extent that is applicable.

8. I assumed that Claim 9 of the '780 Patent is valid and enforceable. I have not considered any issues related to damages associated with this infringement.

9. I understand Dr. Rubin is not providing a validity opinion on Claim 9 of the '780 Patent. Ex. 1, Rubin (2019/03/09) Tr. at 30:19-31:17. To the extent that Dr. Rubin provides opinions that one or more claim elements are invalid, I reserve my rights to rebut.

10. The language of Claim 9 of the '780 Patent is set forth below.

9. A system for generating a Downloadable ID to identify a Downloadable, comprising:

a communications engine for obtaining a Downloadable that includes one or more references to software components required to be executed by the Downloadable; and

an ID generator coupled to the communications engine that fetches at least one software component identified by the one or more references, and for performing a hashing function on the Downloadable and the fetched software components to generate a Downloadable ID.

### IV. OVERVIEW OF THE '780 PATENT

11. The '780 Patent describes techniques for protecting computer systems against potentially malicious web content that would typically be downloaded to be run by a process such as an Internet browser. The patent refers to such programs as "Downloadables." *See e.g.*, Dkt. 371-5, '780 Patent at 1:50-55 ("A Downloadable is an executable application program downloaded from a source computer and run on the destination computer. Downloadables are typically requested by an ongoing

process such as by an Internet browser or web engine. Downloadables can include references to various software components. As one example, an HTML file includes a reference such as a tag to an iframe or a JavaScript script which dynamically obtains content for the HTML file. '780 Patent at 2:5-6 (stating that Downloadables include Java applet, an ActiveX control, a JavaScript script, or a Visual Basic script). As another example, an executable (such as a JAR file) includes components such as Java classes where one Java class may contain reference to another. As yet another example, a PDF file includes a reference to a JavaScript script, or ActiveX code, where such script/code can be automatically executed.

12. The '780 Patent specifies the generation and use of a "Downloadable ID" as an identifier for a Downloadable and the associated software components. Benefits of using a Downloadable ID include allowing the network security system to quickly identify previously seen Downloadables and thus avoid expensive re-analysis for Downloadables. It may also allow the security system to allow or block the Downloadable without further reanalysis. The use of a Downloadable ID can yield significant performance improvements in the Web environment. *See, e.g.*, '780 Patent at 8:7-20 ("The first comparator 320 in step 608 examines the lists of Downloadables to allow or to block per administrative override 425 against the Downloadable ID of the incoming Downloadable to determine whether to allow the Downloadable automatically. If so, then in step 612 the first comparator 320 sends the results to the logical engine 333. If not, then the method 600 proceeds to step 610. In step 610, the first comparator 620 examines the lists of Downloadables to block per administrative override 425 against the Downloadable ID of the incoming Downloadable for determining whether to block the Downloadable automatically. If so, then the first comparator 420 in step 612 sends the results to the logical engine 333. Otherwise, method 600 proceeds to step 614.").

13. The '780 Patent and Claim 9 describe the Downloadable as including one or more references to software components required to be executed by the Downloadable. '780 Patent, Claim 9; *see also* '780 Patent at 9:62-65. The '780 Patent does not limit software components to be "external" or "internal". The '780 Patent describes fetching at least one referenced software component and performing a hashing function on the Downloadable and fetched component. '780 Patent, Claim 9; *see id.* at 9:65-66 ("The ID generator 315 in step 840 performs a hashing function on at least a portion of

1 the Downloadable code ...”). A Downloadable ID can be generated based on the performance of the  
2 hashing function. *Id.*

3 **A. State of the Art**

4 14. It is my opinion that Claim 9 of the ’780 Patent is not directed to a well-understood,  
5 routine, and conventional concept at the time of the invention.

6 15. It is my opinion that the concept of the ’780 Patent provides a specific improvement to  
7 computer security applications. The ’780 Patent addresses the problem of identifying a Downloadable  
8 where it includes references to software components. This “ID” can then be used to quickly determine  
9 information about the Downloadable because the identification function can be applied to an incoming  
10 Downloadable to determine if it is the same as a Downloadable that has already been seen, which is a  
11 much cheaper operation than reanalyzing the Downloadable.

12 16. Furthermore, the ’780 Patent addresses the security issues caused by a Downloadable,  
13 which is an issue specific to computer network security. Additionally, at the time of the invention,  
14 Downloadables spreading through the Internet constituted a new type of threat. The existing solutions  
15 were not well-equipped to address this security issue. This is further evidenced by the fact that the  
16 validity of Claim 9 of the ’780 Patent was challenged both in district courts and in at least two IPRs.  
17 *Finjan v. Blue Coat Systems Inc.*(“*Blue Coat I*”), Case No. 5:13-cv-03999, Dkt. 438 at 5 (N.D. Cal,  
18 Aug. 4, 2015); *Finjan, Inc. v. Sophos, Inc.*, Case No. 3:14-cv-01197, Dkt. 398 (Jury Verdict) (N.D. Cal.  
19 Sept. 21, 2016); *Finjan, Inc. v. Secure Computing Corp.*, Case No. 1-06-cv-00369, Dkt.. 226 (jury  
20 verdict) (D. Del. March 12, 2008); *Palo Alto Networks, Inc. v. Finjan, Inc.*, Case No. IPR2016-00165,  
21 Paper 7 (P.T.A.B. April 21, 2016); *Blue Coat Systems, Inc. v. Finjan, Inc.*, Case No. IPR2016-00492,  
22 Paper 11 (P.T.A.B. June 8, 2016). All of these actions have found that Claim 9 is valid, which in my  
23 understanding shows that the invention presented in Claim 9 is novel.

24 17. **Comments on Dr. Rubin’s Analysis.** I have reviewed the portion of Dr. Rubin’s  
25 declaration entitled “State of the Art” (¶¶ 14-23). I disagree with Dr. Rubin’s opinions.

26 18. In paragraph 14 of his declaration, Dr. Rubin discusses “hashing functions” but there are  
27 inaccuracies in his description. For example, Dr. Rubin states, “[t]ypically, hashing functions are  
28 designed to minimize ‘collisions,’ meaning that each input ideally hashes to a unique output.”

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