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12 JUNIPER NETWORKS, INC.

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

17 FINJAN, INC.,) Case No. 3:17-cv-05659-WHA
18 Plaintiff,) **DECLARATION OF INGRID PETERSEN**
19 vs.) **ON BEHALF OF DEFENDANT JUNIPER**
20 JUNIPER NETWORKS, INC.,) **NETWORKS, INC. IN SUPPORT OF**
21 Defendant.) **FINJAN, INC.’S ADMINISTRATIVE**
) **MOTION TO FILE DOCUMENTS**
) **UNDER SEAL (DKT. NO. 392)**
) Judge: Hon. William Alsup

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DECLARATION OF INGRID PETERSEN

I, Ingrid Petersen, declare as follows:

1. I am an attorney at the law firm of Irell & Manella LLP, counsel of record for Juniper Networks, Inc. (“Juniper”) in the above-captioned matter. I am a member in good standing of the State Bar of California and have been admitted to practice before this Court. I have personal knowledge of the facts set forth in this Declaration and, if called as a witness, could and would testify competently to such facts under oath.

2. I submit this declaration in support of Finjan, Inc.’s (“Finjan”) Administrative Motion to File Documents Under Seal (Dkt. No. 392).

3. I have reviewed the portions of the documents that Finjan has sought to seal, and I believe that, regarding Juniper’s confidential information, the following should be sealed:

Document	Finjan’s Designations of Portions to Be Sealed	Juniper’s Designations of Portions to Be Sealed	Juniper’s Basis for Sealing
Plaintiff Finjan Inc.’s Opposition to Juniper’s Motion for Summary Judgment	Highlighted portions at p. 1, lines 10-11; p. 4, lines 7-8; p. 11, lines 6- 26; p. 13, lines 3-6, 20, 22-26; p. 15, lines 10- 17, 25-26; p. 16, lines 25-27; p. 17, lines 1, 5-6; p. 19, lines 7-28; p. 32, lines 12-24; p. 33, line 1; p. 36, lines 10-12	Highlighted portions at p. 17, lines 5-6; p. 19, lines 20-23	Confidential Source Code
		Highlighted portions at p. 11, lines 6-26; p. 32, lines 12-24; p. 33, line 1	Nondisclosure Agreement/FRE 408
Declaration of Dr. M. Mitzenmacher	Highlighted portions at p. 14, lines 7-17; p. 15, lines 7-9, 17-18, 28; p. 16, lines 1-19; p. 17, line 18 to p. 18, line 6; p. 18, line 13 to p. 19, line 26; and p. 20, lines 9-22	Highlighted portions at p. 14, lines 10-17; p. 16, lines 7-8; p. 18, lines 4, 15-21; p. 19, lines 1, 23	Confidential Source Code
Exhibit 1 to Kastens Decl. (Excerpts of A. Rubin Deposition)	Entire Exhibit	P. 78, line 9; p. 86, line 6	Confidential Source Code
Exhibit 2 to Kastens Decl. (Excerpts of S. Touboul Deposition)	Entire Exhibit	Juniper does not designate any portion of this exhibit to be under seal	N/A

1	Exhibits 4-11 to Kastens Decl. (Correspondence Between Cyphort and Finjan/ Nondisclosure Agreement)	Entire Exhibits	Entire Exhibits	Nondisclosure Agreement/FRE 408
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6	Exhibit 14 to Kastens Decl. (Excerpt of Juniper Guide)	Entire Exhibit	Juniper does not designate any portion of this exhibit to be under seal	N/A
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8	Exhibit 15 to Kastens Decl. (Design Spec.)	Entire Exhibit	Highlighted portions ¹ at bates no. JNPR-FNJN 29018 00975675; JNPR- FNJN 29018 00975676; JNPR-FNJN 29018 00975677; JNPR-FNJN 29018 00975678; JNPR- FNJN 29018 00975679	Confidential Source Code
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13	Exhibit 16 to Kastens Decl. (Design Spec.)	Entire Exhibit	Highlighted portions at bates no. JNPR-FNJN 29018 00962784; JNPR- FNJN 29018 00962791	Confidential Source Code
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15	Exhibit 17 to Kastens Decl. (Excerpts of Cyphort Guide)	Entire Exhibit	Juniper does not designate any portion of this exhibit to be under seal	N/A
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17	Exhibit 18 to Kastens Decl. (Excerpts of Cyphort Guide)	Entire Exhibit	Juniper does not designate any portion of this exhibit to be under seal	N/A
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20	Exhibit 26 to Kastens Decl. (Excerpts of A. Rubin Deposition)	Entire Exhibit	Juniper does not designate any portion of this exhibit to be under seal	N/A
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23	Exhibit 28 to Kastens Decl. (Excerpts of Cyphort Guide)	Entire Exhibit	Juniper does not designate any portion of this exhibit to be under seal	N/A
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¹ To assist the Court, Juniper submitted a separate Administrative Motion to File Under Seal the exhibits attached to this declaration. *See* Dkt. No. 396. The highlighted portions of Exhibits 15 and 16 that Juniper requests to seal are attached to that motion.

1 4. I am informed and believe that the right of the public to inspect and copy public
2 records “is not absolute” and that a court may seal confidential information disclosed during the
3 course of a legal proceeding. *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 598 (1978).

4 5. Because Juniper’s opposition concerns a dispositive motion, I understand that
5 Juniper needs to show a “compelling reason” for sealing a court record. *See Kamakana v. City &*
6 *Cty. of Honolulu*, 447 F.3d 1172, 1179 (9th Cir. 2006). “Compelling reasons” exist to seal a record
7 when it might “become a vehicle for improper purposes,” such as the “release of trade secrets.” *Id.*
8 (quoting *Nixon*, 435 U.S. at 1179).

9 6. It is my understanding that the above documents disclose Juniper’s confidential
10 source code—the computerized instructions describing exactly how Juniper’s products work.

11 7. Additionally, I believe that Juniper has accumulated significant research and
12 development costs, and this sensitive trade secret is the foundation of Juniper’s highly proprietary
13 software. By permitting competitors to receive this information without also spending development
14 costs, public disclosure of Juniper’s source code would materially impair Juniper’s intellectual
15 property rights and business positioning.

16 8. I am informed and believe that the disclosure of Juniper’s source code would cause
17 serious competitive consequences and that Juniper takes numerous measures to maintain the secrecy
18 of this information. It is also my understanding that the protective order in this action, for instance,
19 details the significant lengths Juniper has taken to protect its source code. As the protective order
20 describes, “[t]he source code shall be made available for inspection on a PC which may be a laptop
21 PC and which may be provided without USB ports.” Dkt. No. 149 at 13. Additionally, “[t]he
22 secured computer may be placed in a secured room without Internet access or network access to
23 other computers, and the Receiving Party shall not copy, remove, or otherwise transfer any portion
24 of the source code onto any recordable media or recordable device.” *Id.* Juniper has also
25 implemented strict screening procedures for visitors at its engineering campus.

26 9. Also, I am informed and believe that publicly exposing the source code presents a
27 security risk. Because the source code is at the center of Juniper’s network security products,
28 permitting the disclosure of the source code could significantly harm the users of Juniper’s products.

1 10. Additionally, I am informed and believe that several of the exhibits contain
2 discussions between Finjan and Cyphort regarding patent licensing/settlement negotiations. It is my
3 understanding that these discussions fall under the protection of Federal Rule of Evidence 408 and
4 the Nondisclosure Agreement between Finjan and Cyphort.

5 11. I, therefore, believe that “compelling reasons” exist for sealing the disclosure of the
6 source code and the settlement discussions, and by seeking to seal only the portions that contain the
7 source code and the settlement discussions, Juniper’s request is narrowly tailored.

8 Executed on March 18, 2019, at Newport Beach, California.

9 I declare under penalty of perjury under the laws of the United States of America that the
10 foregoing is true and correct to the best of my knowledge.

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/s/ Ingrid Petersen

Ingrid Petersen
Attorney for Defendant
Juniper Networks, Inc.