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13 JUNIPER NETWORKS, INC.

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

18 FINJAN, INC., a Delaware Corporation, ) Case No. 3:17-cv-05659-WHA  
19 Plaintiff, )  
20 vs. ) **DEFENDANT JUNIPER NETWORKS,**  
21 JUNIPER NETWORKS, INC., a Delaware ) **INC.’S RESPONSE TO PLAINTIFF**  
Corporation, ) **FINJAN, INC.’S ADMINISTRATIVE**  
22 Defendant. ) **MOTION TO EXTEND THE DEADLINE**  
23 ) **FOR FINJAN’S REPLY**

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1 Juniper Networks, Inc. (“Juniper”) is essentially indifferent as to whether the Court grants  
2 or denies Finjan, Inc.’s (“Finjan”) Administrative Motion To Extend The Deadline For Finjan’s  
3 Reply (the “Motion,” Dkt. No. 401), as the primary impact of that decision will be on the amount  
4 of time the Court has to study the issues before the May 2 hearing date. In the event that the Court  
5 does grant Finjan’s Motion, however, Juniper would request a parallel extension because Finjan has  
6 not yet even provided a deposition date for one of the fact witnesses whose testimony it relies upon,  
7 as discussed below. Aside from requesting parallel treatment, the remainder of this response is  
8 provided merely to correct certain errors in Finjan’s Motion so the Court has the complete and  
9 correct factual record.

10 Finjan’s request for additional time to prepare its reply brief is premised largely on its  
11 assertion that it needs extra time to respond to the “new” allegations in Juniper’s opposition.  
12 Dkt. 401 at 1 (“Juniper raised several allegations and source code citations for the first time in its  
13 opposition to Finjan’s summary judgment motion for the ’154 Patent.”). To some extent, Finjan is  
14 correct that Juniper raised “new” arguments in its opposition because Juniper was responding to  
15 arguments that Finjan raised for the first time in its opening summary judgment brief. Of course,  
16 there is nothing wrong with the parties raising arguments in their moving or opposition papers; that  
17 is how motion practice works (although Finjan also disclosed several previously unidentified  
18 infringement theories, which is improper pursuant to Patent L.R. 3-1 and is the subject of a separate  
19 motion). Finjan does not, however, explain when or how Juniper should have outlined the fairly  
20 obvious flaws in Finjan’s infringement arguments before Finjan even made these arguments.

21 Finjan’s secondary basis for an extension is the timing of Dr. Rubin’s deposition. But this  
22 is the timing that Finjan itself requested for the deposition. As Finjan’s evidence shows, back on  
23 March 19, Juniper offered to make Dr. Rubin available either on March 30 (four business days in  
24 advance of the reply deadline) or on April 2.<sup>1</sup> Juniper provide these dates at least 11 days before  
25 the first proposed deposition date so that Finjan would have ample time to make any necessary  
26 arrangements. *See* Dkt. 401-2 at 4 (Juniper’s March 19 email telling Finjan that Dr. Rubin is  
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28 <sup>1</sup> Juniper offered to begin the deposition on April 2 at 11 a.m. in order to accommodate Dr. Rubin’s

1 available for deposition on March 30). Notwithstanding the 11 days of notice Juniper provided  
2 before the March 30 date, Finjan claimed that it could not proceed on March 30 because of “such  
3 short notice,” and it elected to take Dr. Rubin’s deposition on April 2. *See* Dkt. No. 401 at 1.

4 If the Court does grant Finjan an extension to Finjan’s reply deadline, then the Court should  
5 grant the same extension to Juniper for substantially similar reasons. In particular, Finjan relied in  
6 its summary judgment opposition on the testimony of inventor Shlomo Touboul (Dkt. No. 393 at  
7 6), but Finjan still has not provided a date for Mr. Touboul’s deposition despite Juniper’s request  
8 back on March 19. Ex. 1 (Juniper’s March 19 request for a date to depose Mr. Touboul regarding  
9 his testimony that Finjan relied upon in its reply). Thus, to the extent Dr. Rubin’s April 2 deposition  
10 constitutes good cause to extend Finjan’s reply deadline, Mr. Touboul’s still-unscheduled deposition  
11 similarly constitutes good cause to extend Juniper’s reply deadline.

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13 Dated: March 26, 2019

Respectfully submitted,

14 IRELL & MANELLA LLP

15 By: /s/ Rebecca L. Carson

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