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12 FINJAN, INC.

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

16 FINJAN, INC., a Delaware Corporation,

17 Plaintiff,

18 v.

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

21 Defendant.

Case No.: 3:17-cv-05659-WHA

**PLAINTIFF FINJAN, INC.’S REPLY IN
SUPPORT OF ITS SECOND MOTION FOR
EARLY SUMMARY JUDGMENT,
REGARDING INFRINGEMENT OF CLAIM 1
OF U.S. PATENT NO. 8,141,154**

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

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1 **I. INTRODUCTION**

2 Juniper, Inc.’s (“Juniper”) arguments are universally without merit and an attempt to distract
3 from the true issue of whether Juniper infringes under a plain reading of Claim 1 of U.S. Patent No.
4 8,141,154 (Dkt. 369-3, “the ’154 Patent”).

5 **II. CLAIM CONSTRUCTION**

6 **A. “Safe” Should be given its Plain and Ordinary Meaning**

7 Finjan has always maintained that “safe” is a well-understood term that needs no construction.
8 *See* Dkt. 176 at 20-21; Dkt. 187 at 15. Juniper’s proposed construction is wrong because there are
9 numerous examples in the specification where safe does not take Juniper’s narrow interpretation,
10 making Juniper’s reliance on *Rembrandt Wireless Techs., LP v. Samsung Elecs. Co.*, 853 F.3d 1370
11 (Fed. Cir. 2017) incorrect. ‘154 Patent at 13:29-36 (sending a variable “name_of_function” “so that
12 input inspector 275 can determine whether it is safe to invoke the specific original function with the
13 input.”); *id.* at 13:10-13 (an “input inspector 275 determines that an input is riot safe ...”); *id.* at 11:59-
14 63 (functions that are “normally considered to be safe” regardless of any client computer policy); *id.* at
15 9:29-35 (calls that are already “known to be safe,” which is necessarily determined before accessing
16 any client computer policy).

17 Juniper also mischaracterized the specification for its argument for its construction of “safe.”
18 *Opp.* at 6. Juniper discusses a single embodiment near the end of the specification that does not
19 describe the inventions as whole, but shows that “safe” simply means a security computer returning an
20 indicator that says “true.” ‘154 Patent at 14:64–15:3 (“If the indicator is true, indicating that it is safe
21 for the client computer to invoke ...”). Therefore, even in the example identified by Juniper, the
22 embodiment discloses that “safe” is just “true,” and therefore does not need to be limited in the manner
23 Juniper suggests. *Id.* at 10:4-6 (safety indicator “may be a Boolean variable, or a variable with more
24 than two settings that can carry additional safety inspection information”). Juniper also ignores that its
25 proposed construction reads out embodiments from the specification that do not limit the determination
26 of whether content is safe to any “security policy” or “client computer,” which is another exception to
27 the rule stated in *Rembrandt*. *See, e.g.*, ‘154 Patent Abstract; *id.* at 5:18-25; 5:39-50; 6:4-26; *see also*

28 10:4-6 (discussing Boolean variable that can carry additional safety inspection information). Thus

1 both exceptions to the rule of interpreting “i.e.” as “definitional” apply here and Juniper’s construction
2 should be rejected. *Rembrandt*, 853 F.3d at 1377.¹

3 **B. “Content processor” should be given its plain and ordinary meaning**

4 Finjan has also always maintained that “content processor” has its plain and ordinary meaning.
5 Dkt. 176 at 17. Juniper, in its Opposition, however, changed both the term it seeks to construe and its
6 proposed construction. First, Juniper truncates the term it seeks construe to just “content processor”
7 from its previous identification of the entire 45 word element. Juniper then adds limitations to its
8 proposed construction, including for the first time the limitations of a “client/user computer” and
9 “modified content.” Juniper should not be permitted to change the terms it is construing and its
10 construction of this term, in the middle of summary judgment, as it prejudices Finjan who relied on
11 Juniper’s disclosed claim construction. Further, Juniper’s argument that its newly revised construction
12 “reflects the plain and ordinary meaning” is nonsensical, because Juniper modifies two plain English
13 words to limit both the location of processing (“client/user”) and the type of content processed
14 (“modified”). Opposition (“Opp.”) at 6-7.² Juniper’s construction also makes no sense in the context
15 of the claims because it would have the content processor processing both modified and unmodified
16 content simultaneously: “a [processor on a client/user computer that processes modified content] (i) for
17 processing content received over a network, the content including a call to a first function, and the call
18 including an input, and (ii) for invoking a second function with the input, only if a security computer
19 indicates that such invocation is safe.” (underlining added).

20 Juniper’s new limitation of “modified content” cannot apply because the ‘154 Patent provides
21 an example where unmodified content is processed using a content processor, describing a “content
22 processor” “for processing content received over a network.” ‘154 Patent at 7:22-23; *see also id.* at
23 6:4-14 (describing that “content” received for processing has the “original” function”). Any
24 construction cannot read out this disclosed preferred embodiment. The specification also explains that
25

26 ¹ Juniper’s reliance on *Edwards Lifesciences LLC v. Cook Inc.*, 582 F.3d 1322, 1333-34 (Fed. Cir.
27 2009) is also misplaced because there was an express disclaimer. By contrast, the ‘154 Patent gives
28 more than one description of the word “safe” and makes no such disclaimer.

29 ² Juniper’s argument that Finjan’s construction would make the term “superfluous” is equally

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