

REDACTED VERSION OF DOCUMENT SOUGHT TO BE SEALED

1 IRELL & MANELLA LLP
 2 Jonathan S. Kagan (SBN 166039)
 3 jkagan@irell.com
 4 Alan Heinrich (SBN 212782)
 5 aheinrich@irell.com
 6 Joshua Glucoft (SBN 301249)
 7 jglucoft@irell.com
 8 1800 Avenue of the Stars, Suite 900
 9 Los Angeles, California 90067-4276
 10 Telephone: (310) 277-1010
 11 Facsimile: (310) 203-7199
 12
 13 Rebecca Carson (SBN 254105)
 rcarson@irell.com
 14 Ingrid Petersen (SBN 313927)
 ipetersen@irell.com
 15 Kevin Wang (SBN 318024)
 kwang@irell.com
 16 840 Newport Center Drive, Suite 400
 17 Newport Beach, California 92660-6324
 18 Telephone: (949) 760-0991
 19 Facsimile: (949) 760-5200
 20
 21 *Attorneys for Defendant*
 22 JUNIPER NETWORKS, INC.
 23

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

17 FINJAN, INC., a Delaware Corporation, 18 Plaintiff, 19 vs. 20 JUNIPER NETWORKS, INC., a Delaware 21 Corporation, 22 Defendant.	17) Case No. 3:17-cv-05659-WHA 18) 19) 20) 21) 22) 23) 24) 25) 26) 27) 28)	17) 18) 19) 20) 21) 22) 23) 24) 25) 26) 27) 28)	DEFENDANT JUNIPER NETWORKS, INC.'S REPLY IN SUPPORT OF ITS MOTION FOR SUMMARY JUDGMENT REGARDING CLAIM 9 OF U.S. PATENT NO. 6,804,780 Date: May 2, 2019 Time: 8:00 a.m. Judge: William Alsup Courtroom: 12, 19th Floor
--	---	--	--

REDACTED VERSION OF DOCUMENT SOUGHT TO BE SEALED

TABLE OF CONTENTS

	<u>Page</u>	
I.	INTRODUCTION.....	1
II.	FINJAN'S CLAIM CONSTRUCTION ARGUMENTS REGARDING THE "FETCHING" STEP ARE CONTRARY TO THE CLAIM LANGUAGE.....	2
III.	FINJAN HAS NOT RAISED A TRIABLE ISSUE OF FACT ON INFRINGEMENT.....	4
	A. Finjan Does Not Dispute That Juniper Is Entitled To Summary Judgment On Finjan's Original "Dropped File" Theory.....	4
	B. Finjan's New Hash As-Is Theory Fails As A Matter Of Law.....	4
	1. Archive Files Do Not Meet Claim Element 9(a) As A Matter Of Law.....	5
	2. There Is No Evidence That The SmartCore Fetches Anything.....	6
	3. There Is No Evidence That SmartCore Meets The Hashing Limitation.....	7
IV.	CLAIM 9 IS UNPATENTABLE UNDER 35 U.S.C. § 101	9
	A. Claim 9 Is Abstract.....	9
	B. Finjan's Own Admissions Regarding Claim Scope Demonstrate That There Are No Disputed Facts Regarding The Inventive Concept Prong.....	11
V.	THE UNDISPUTED FACTS SHOW FINJAN FAILED TO COMPLY WITH § 287	12
	A. The Undisputed Facts Show that Finjan Failed to Provide Actual Notice	13
	B. The Undisputed Facts Show that Finjan Failed to Provide Constructive Notice.....	14

REDACTED VERSION OF DOCUMENT SOUGHT TO BE SEALED

TABLE OF AUTHORITIES

	Page(s)
Cases	
<i>Amsted Indus., Inc. v. Buckeye Steel Castings Co.,</i> 24 F.3d 178 (Fed. Cir. 1994).....	13
<i>Ancora Techs., Inc. v. HTC Am., Inc.,</i> 908 F.3d 1343 (Fed. Cir. 2018).....	10
<i>Arctic Cat Inc. v. Bombardier Recreational Prods. Inc.,</i> 876 F.3d 1350 (Fed. Cir. 2017).....	14, 15
<i>Berkheimer v. HP Inc.,</i> 890 F.3d 1369 (Fed. Cir. 2018).....	11
<i>Blitzsafe Tex., LLC v. Honda Motor Co., Ltd.,</i> 2017 U.S. Dist. LEXIS 58358 (E.D. Tex. Jan. 26, 2017)	15
<i>Blue Spike LLC v. Google Inc.,</i> 2015 WL 5260506 (N.D. Cal. Sept. 8, 2015).....	12
<i>Digitech Image Techs., LLC v. Elecs. For Imaging, Inc.,</i> 758 F.3d 1344 (Fed. Cir. 2014).....	10
<i>Eidos Display, LLC v. Chi Mei Innolux Corp.,</i> 2018 WL 1156284 (E.D. Tex. Mar. 5, 2018).....	13
<i>Finjan Software, Ltd. v. Secure Comput. Corp.,</i> 1:06-cv-00369-GMS, Dkt. 226 (D. Del. Mar. 14, 2008)	15
<i>Finjan, Inc. v. Bitdefender Inc.,</i> No. 4:17-cv-04790-HSG, Dkt. 101 (N.D. Cal. Feb. 14, 2019)	3
<i>Finjan, Inc. v. Bitdefender Inc.,</i> No. 4:17-cv-04790-HSG (N.D. Cal. Feb. 4, 2019)	2, 3
<i>Finjan, Inc. v. Cisco, Inc.,</i> No. 5:17-cv-00072-BLF, Dkt. 134 (N.D. Cal. July 23, 2018)	4
<i>Finjan, Inc. v. Sophos, Inc.,</i> 3:14-cv-01197-WHO, Dkt. 398 (N.D. Cal. Sept. 21, 2016)	15
<i>Finjan, Inc. v. Sophos, Inc.,</i> 3:14-cv-01197-WHO (N.D. Cal.), Dkt. 128	14
<i>Intellectual Ventures I LLC v. Capital One Fin. Corp.,</i> 850 F.3d 1332 (Fed. Cir. 2017).....	11

REDACTED VERSION OF DOCUMENT SOUGHT TO BE SEALED

1	<i>Intellectual Ventures I LLC v. Symantec Corp.</i> , 100 F. Supp. 3d 371 (D. Del. 2015), <i>aff'd in relevant part, rev'd on other grounds</i> , 838 F.3d 1307 (Fed. Cir. 2016).....	10, 11
3	<i>Iron Oak Techs., LLC v. Fujitsu Am., Inc.</i> , 2018 WL 6593709 (N.D. Tex. Dec. 14, 2018).....	13
5	<i>Johnstech Int'l Corp. v. JF Microtech SDN BHD</i> , 2016 WL 4242220 (N.D. Cal. Aug. 11, 2016).....	13
6	<i>Landmark Land, Inc. v. Fed. Deposit Ins. Corp.</i> , 256 F.3d 1365 (Fed. Cir. 2001).....	13
8	<i>Lans v. Digital Equip. Corp.</i> , 252 F.3d 1320 (Fed. Cir. 2001).....	13
10	<i>Microsoft Corp. v. GeoTag, Inc.</i> , 817 F.3d 1305 (Fed. Cir. 2016).....	15
11	<i>Qualcomm Inc. v. Apple Inc.</i> , 2019 WL 448278 (S.D. Cal. Feb. 5, 2019)	13, 15
13	<i>Realtime Data, LLC v. Actian Corp.</i> , 2017 U.S. Dist. LEXIS 56950 (E.D. Tex. Apr. 4, 2017)	15
15	<i>Roche Diagnostics Operations, Inc. v. Lifescan Inc.</i> , 660 Fed. Appx. 932 (Fed. Cir. 2016)	3
16	<i>SAP Am., Inc. v. Investpic, LLC</i> , 898 F.3d 1161 (Fed. Cir. 2018).....	11
18	<i>Schoell v. Regal Marine Industries, Inc.</i> , 247 F.3d 1202 (Fed. Cir. 2001).....	9
20	<i>Sealant Sys. Int'l, Inc. v. TEK Glob., S.R.L.</i> , 616 F. App'x 987 (Fed. Cir. 2015).....	13
21	<i>Semcon IP Inc. v. Huawei Device USA Inc.</i> , 2017 WL 6343771 (E.D. Tex. Dec. 12, 2017)	14
23	<i>Smart Systems Innovations, LLC v. Chicago Transit Authority</i> , 873 F.3d at 1374 (Fed. Cir. 2017)	12
25	<i>SRI Int'l, Inc. v. Adv. Tech. Labs., Inc.</i> , 127 F.3d 1462 (Fed. Cir. 1997)	13
26	<i>U.S. Ethernet Innovations, LLC v. Acer, Inc.</i> , 2013 WL 4456161 (N.D. Cal. Aug. 16, 2013).....	15
28		

REDACTED VERSION OF DOCUMENT SOUGHT TO BE SEALED

1 **Statutes**

2 35 U.S.C. § 101 1, 9, 12

3 35 U.S.C. § 287 1, 12, 15

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

Explore Litigation Insights



Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.