

1 IRELL & MANELLA LLP
Jonathan S. Kagan (SBN 166039)
2 jkagan@irell.com
Alan Heinrich (SBN 212782)
3 Joshua P. Glucoft (SBN 301249)
jglucoft@irell.com
4 1800 Avenue of the Stars, Suite 900
Los Angeles, California 90067-4276
5 Telephone: (310) 277-1010
Facsimile: (310) 203-7199

6
7 Rebecca L. Carson (SBN 254105)
rcarson@irell.com
8 Ingrid M. H. Petersen (SBN 313927)
ipetersen@irell.com
Kevin Wang (SBN 318024)
9 kwang@irell.com
840 Newport Center Drive, Suite 400
10 Newport Beach, California 92660-6324
Telephone: (949) 760-0991
11 Facsimile: (949) 760-5200

12 *Attorneys for Defendant*
JUNIPER NETWORKS, INC.

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

17 FINJAN, INC.,) Case No. 3:17-cv-05659-WHA
18)
Plaintiff,) **DECLARATION OF KEVIN WANG IN**
19 vs.) **SUPPORT OF JUNIPER NETWORKS,**
20 JUNIPER NETWORKS, INC.,) **INC.’S ADMINISTRATIVE MOTION TO**
21 Defendant.) **FILE UNDER SEAL**
22)
23)
24)
25)
26)
27)
28)

DECLARATION OF KEVIN WANG

I, Kevin Wang, 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 Juniper’s May 31, 2019, Administrative Motion to File Under Seal.

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

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

5. It is my understanding that the Ninth Circuit has defined trade secrets as “any formula, pattern, device or compilation of information which is used in one’s business, and which gives him an opportunity to obtain an advantage over competitors who do not know or use it.” *In re Elec. Arts, Inc.*, 298 Fed. App’x 568, 569 (9th Cir. 2008) (quoting RESTATEMENT (FIRST) OF TORTS § 757 cmt. b); *see also Clark v. Bunker*, 453 F.2d 1006, 1009 (9th Cir. 1972).

6. I also understand that Civil Local Rule 79-5 supplements the “compelling reasons” standard. Under this rule, a party seeking to file under seal must submit “a request that establishes that the document, or portions thereof, are privileged, protectable as a trade secret or otherwise entitled to protection under the law.” *Id.* Additionally, “[t]he request must be narrowly tailored to seek sealing only of sealable material.” *Id.*

1 7. I am further informed that courts within the Northern District of California have
 2 concluded that “[c]onfidential source code clearly meets the definition of a trade secret . . . [and
 3 therefore] meets the ‘compelling reasons’ standard.” *Fed. Trade Comm’n v. DIRECTV, Inc.*, No.
 4 15-CV-01129-HSG, 2017 WL 840379, at *2 (N.D. Cal. Mar. 3, 2017) (second alteration in original)
 5 (quoting *Apple, Inc. v. Samsung Elecs. Co.*, No. 11-CV-01846-LHK, 2012 WL 6115623, at *2 (N.D.
 6 Cal. Dec. 10, 2012), *rev’d on other grounds, Apple Inc. v. Samsung Elecs. Co., Ltd.*, 727 F.3d 1214
 7 (Fed. Cir. 2013)); *see also Opperman v. Path, Inc.*, No. 13-CV-00453-JST, 2017 WL 1036652, at
 8 *3 (N.D. Cal. Mar. 17, 2017).

9 8. I am informed and believe that there are “compelling reasons” for sealing the
 10 following:

Document	Portion to Be Sealed	Basis for Sealing	Designating Party
Mitzenmacher Declaration in support of Finjan, Inc.’s Second Motion for Early Summary Judgment Re Claim 1 of the ’154 Patent (Dkt. No. 368)	Portions of 10:26-27; 13:15-17, 20-21, 24-25; 15:22-24; 16:25-26, 28; 17:6, 9, 11-13; 20:4-7, 10-14, 16-24; 21:1, 3-11; 23:12-13, 16, 24; 24:13-15, 20, 22, 24-25; 25:1-6, 11-18, 22-28; 26:1, 5-9, 14, 17-19, 21-27; 27:1-4; 28:9-10, 13-28; 29:1-2, 4-5, 7-15; 30:10-11; 31:3, 14, 18-21, 24-25; 32:10-12, 14-16, 18-23, 25-26, 28; 33:1	Confidential Source Code	Juniper

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

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

28 11. I am informed and believe that the disclosure of Juniper’s source code would cause

