

EXHIBIT 2

From: Glucoft, Josh
Sent: Sunday, May 26, 2019 9:53 PM
To: ~Williams, Daniel
Cc: Kagan, Jonathan; Carson, Rebecca; Wang, Kevin; Holland, Eileen; ~Andre, Paul; ~Kobialka, Lisa; ~Hannah, James; ~Kastens, Kristopher; Carson, Rebecca; Heinrich, Alan; Holland, Eileen; Isaac, Shawana; Kagan, Jonathan; Manzano, Jim; Mittleman, Harry; Petersen, Ingrid; Quarnstrom, Brian; Theilacker, Leah; Wang, Kevin; #Juniper/Finjan [Int]
Subject: RE: Finjan v. Juniper Network - Depositions

Dan,

Given that Finjan has told us that it intends to take Mr. Touboul's deposition on June 11 in Israel—even though that date and location does not work for Juniper—this issue is time sensitive and we must promptly seek relief from the Court. Indeed, lead counsel met and conferred on this issue, and Finjan made clear that it is not willing to discuss any compromise with respect to the timing or location of Mr. Touboul's deposition. The parties also reached an impasse as to whether Finjan can even take Mr. Touboul's deposition without seeking leave from the Court, given that Finjan has already taken ten days of deposition. As such, Finjan's attempt to prevent Juniper from promptly raising the issue with the Court is inappropriate. Juniper will be filing its letter brief with the Court on Wednesday as previously indicated, and we expect Finjan to follow the procedure that the parties previously agreed to with respect to Ms. Bey's motion to compel. This will avoid the needless back and forth contemplated by your vague proposal. If Finjan refuses to timely provide its responsive section, then we will notify the Court that Finjan's response is missing because Finjan needlessly delayed notwithstanding the time sensitivity of the matter.

As to Finjan's request to take the deposition of Mr. Jas and an additional Rule 30(b)(6) witness, we have explained on multiple occasions Juniper's position that Finjan has already used its ten deposition days. Moreover, even under Finjan's incorrect interpretation of Judge Alsup's Order, Finjan only has one day of deposition left, which it apparently intends to use for Mr. Touboul's deposition. If Finjan believes that it has good cause to take depositions in excess of the number allowed by the Federal Rules, please identify the complete basis and provide Finjan's proposed compromise, as we previously requested. While Juniper is open to reaching a compromise on this issue to avoid the need for Court intervention, Finjan's only proposal thus far—that it need not comply with the Federal Rules and that it is entitled to take unlimited Rule 30(b)(6) depositions so long as they are less than 3.5 hours—is not reasonable.

Regards,
Josh

From: Williams, Daniel <DDWilliams@KRAMERLEVIN.com>
Sent: Sunday, May 26, 2019 8:08 AM
To: Glucoft, Josh <JGlucoft@irell.com>
Cc: Kagan, Jonathan <JKagan@irell.com>; Carson, Rebecca <RCarson@irell.com>; Wang, Kevin <kwang@irell.com>; Holland, Eileen <EHolland@irell.com>; ~Andre, Paul <pandre@kramerlevin.com>; ~Kobialka, Lisa <lkobialka@kramerlevin.com>; ~Hannah, James <jhannah@kramerlevin.com>; ~Kastens, Kristopher <kkastens@kramerlevin.com>; Carson, Rebecca <RCarson@irell.com>; Heinrich, Alan <AHeinrich@irell.com>; Holland, Eileen <EHolland@irell.com>; Isaac, Shawana <SIsaac@irell.com>; Kagan, Jonathan <JKagan@irell.com>; Manzano, Jim <JManzano@irell.com>; Mittleman, Harry <HMittleman@irell.com>; Petersen, Ingrid <ipetersen@irell.com>; Quarnstrom, Brian <BQuarnstrom@irell.com>; Theilacker, Leah <LTheilacker@irell.com>; Wang, Kevin <kwang@irell.com>; #Juniper/Finjan [Int] <Juniper-Finjan@irell.com>
Subject: RE: Finjan v. Juniper Network - Depositions

I note that your sweeping dismissal of our position on the deposition issue fails to address your improper accounting of Gupta and Icasiano - which, even under your incorrect total puts us under 10. To reiterate, leave is unnecessary at this point. As such, please provide the dates and times for the Jas deposition as Juniper said it would in previous emails. Also, please provide the identity of the designee for the outstanding 30(b)(6) topic, as well as dates and times that the designee can be deposed, as Juniper said it would in previous emails.

As for the Touboul deposition, we understand that you only object to the scheduling of the deposition, not that we can take it. If you prefer to continue your letter writing campaign in lieu of cooperating with us to resolve the issue without the Court's intervention, then so be it. We object to your insistence on using the same exchange procedure used for the Bey subpoena. You can provide your half next week and we will respond within a few days of that. Both sides will have an opportunity to respond to any new arguments added.

Regards,
Dan

Daniel Williams
Associate

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From: Glucoft, Josh <JGlucoft@irell.com>
Sent: Friday, May 24, 2019 9:05 PM
To: Williams, Daniel <DDWilliams@KRAMERLEVIN.com>
Cc: Kagan, Jonathan <JKagan@irell.com>; Carson, Rebecca <RCarson@irell.com>; Wang, Kevin <kwang@irell.com>; Holland, Eileen <EHolland@irell.com>; Andre, Paul <PAndre@KRAMERLEVIN.com>; Kobialka, Lisa <LKobialka@KRAMERLEVIN.com>; Hannah, James <JHannah@KRAMERLEVIN.com>; Kastens, Kris <KKastens@KRAMERLEVIN.com>; Carson, Rebecca <RCarson@irell.com>; Glucoft, Josh <JGlucoft@irell.com>; Heinrich, Alan <AHeinrich@irell.com>; Holland, Eileen <EHolland@irell.com>; Isaac, Shawana <SIsaac@irell.com>; Kagan, Jonathan <JKagan@irell.com>; Manzano, Jim <JManzano@irell.com>; Mittleman, Harry <HMittleman@irell.com>; Petersen, Ingrid <ipetersen@irell.com>; Quarnstrom, Brian <BQuarnstrom@irell.com>; Theilacker, Leah <LTheilacker@irell.com>; Wang, Kevin <kwang@irell.com>; #Juniper/Finjan [Int] <Juniper-Finjan@irell.com>
Subject: [EXTERNAL] RE: Finjan v. Juniper Network - Depositions

Daniel,

Your understanding of Judge Alsup's Order is plainly incorrect, as you seem to believe that it permits an unlimited number of Rule 30(b)(6) depositions as long as each individual deposition is less than 3.5 hours. In any event, Finjan spent more than 3.5 hours on the record with Mr. Islah, so it counts as a deposition even under Finjan's improper reading of Judge Alsup's Order. If Finjan believes it has good cause to take additional depositions, please let us know the complete basis for that belief so that we can meaningfully meet and confer. Additionally, please let us know if Finjan has a reasonable proposal for resolving this issue.

As I mentioned in my previous email, Juniper intends to move the Court by this Wednesday (May 29) to quash the deposition notice to Mr. Touboul. Please confirm that the parties will exchange their sections on Tuesday, May 28 at 10 am Pacific, in following with the procedure the parties adopted for Ms. Bey's motion to compel. If Finjan refuses to follow the prior procedure, then please provide Finjan's final section by 11 am Pacific on Wednesday, May 29, so that we may incorporate it into our filing. If Finjan refuses to timely provide its section, we will notify the Court that Finjan failed to comply.

Regards,
Josh

From: Williams, Daniel <DDWilliams@KRAMERLEVIN.com>

Sent: Friday, May 24, 2019 5:59 PM

To: Glucoft, Josh <JGlucoft@irell.com>

Cc: Kagan, Jonathan <JKagan@irell.com>; ccurran@irell.com; ssong@irell.com; Carson, Rebecca <RCarson@irell.com>; Wang, Kevin <kwang@irell.com>; Holland, Eileen <EHolland@irell.com>; ~Andre, Paul <pandre@kramerlevin.com>; ~Kobialka, Lisa <lkobialka@kramerlevin.com>; ~Hannah, James <jhannah@kramerlevin.com>; ~Kastens, Kristopher <kkastens@kramerlevin.com>

Subject: Finjan v. Juniper Network - Depositions

Josh,

Your accounting of Finjan depositions from your last email is not correct. Finjan has not reached the 10 deposition day threshold for fact witnesses, and is entitled to take the depositions of Frank Jas, Shlomo Touboul, and the remaining 30(b)(6) topic designee, without leave of Court.

First, for the Touboul deposition, the Court's May 23, 2019 Order clarified that Finjan can provide video testimony for its witnesses. *See* Dkt. 487 ("To repeat, Finjan's witness(es) with a trial conflict may appear by video."). Therefore, Finjan is entitled to depose Mr. Touboul so that his testimony can be used at trial. Finjan provided Juniper with ample notice of its intent to depose Mr. Touboul and has offered alternatives where Juniper could attend through video or by phone if necessary. Mr. Touboul has limited availability for deposition. Since the parties have already met and conferred, and Juniper has not provided any meaningful contributions for resolving this issue, the Touboul deposition will proceed as noticed.

Second, any 30(b)(6) depositions less than 3 ½ hours on record do not count against the fact deposition limitations in this case. *See* Supplemental Order To Order Setting Initial Case Management Conference In Civil Cases Before Judge William Alsup, at ¶ 32(b). Accordingly, Finjan is entitled to take additional 30(b)(6) depositions so long as they are under half a day on record.

Furthermore, because 30(b)(6) depositions less than 3 1/2 hours on record do not count against Finjan's totals in this case, Juniper is improperly including the 30(b)(6) deposition of Mr. Icasiano and the 30(b)(6) deposition of Mr. Islah in its calculation. With respect to Mr. Icasiano's deposition, Juniper cannot tack on the second deposition of Ms. Gupta (a different 30(b)(6) designee who was designated on a separate 30(b)(6) topic). Moreover, the second Gupta deposition (on December 7, 2018) was ordered by the Court as relief for Juniper's discovery misconduct, and therefore, it cannot count against Finjan's deposition allotment in any context. At the pretrial hearing on December 4, 2018, when discussing Finjan's motion *in limine* No. 1, the Court ordered Juniper to permit Finjan to take another deposition, at Juniper's expense, on the 17,000 page document that had been untimely disclosed. *See* Pretrial Hearing Tr. 76:1-7 ("But if you want to take another deposition on the 17,000 between now and the day of trial, I will let you do that. At their expense. They will have to pay for it. And -- but I'm not going to decide this just yet, because it does trouble me that this was produced so late."). This is consistent with Judge Alsup's Standing Order which states that deponents will be called back for more testimony or late produced documents, at the late producer's expense, in order to

discourage “hide-the-ball” tactics. *See* Supplemental Order To Order Setting Initial Case Management Conference In Civil Cases Before Judge William Alsup, at ¶ 27 (“The late-producer will ordinarily bear all expense of resuming the deposition. This practice encourages full and proper productions and discourages ‘hide-the-ball’ tactics.”). Since this additional deposition was specifically permitted as relief for Juniper’s discovery misconduct, it cannot count against Finjan’s deposition totals under any circumstances. Under Finjan’s calculations, Finjan has only used 8 days of fact depositions and is entitled to 2 additional fact depositions that may be one half day or more without seeking leave of court. Also, as mentioned above, Finjan is entitled to take additional 30(b)(6) depositions without leave of court so long as they are less than ½ a day.

Third, Juniper’s initial disclosures list 12 Juniper employees as having relevant information about Juniper. Finjan should have an opportunity to depose each of these individuals, which includes Frank Jas.

Please immediately provide the dates and times that Frank Jas is available for a deposition. Additionally, please immediately provide the identity of the individual designated for the outstanding 30(b)(6) topic, and the time and place the designee is available for deposition.

Regards,
Dan

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Associate

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Bio

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