

EXHIBIT 6

Volume 2

Pages 198 - 397

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
BEFORE THE HONORABLE WILLIAM H. ALSUP, JUDGE

FINJAN, INC.,
Plaintiff,
VS.
JUNIPER NETWORKS, INC.,
Defendant.

No. C 17-5659 WHA

San Francisco, California
Tuesday, December 11, 2018

TRANSCRIPT OF PROCEEDINGS

APPEARANCES:

For Plaintiff: KRAMER, LEVIN, NAFTALIS & FRANKEL LLP
990 Marsh Road
Menlo Park, California 94025
BY: PAUL J. ANDRE, ESQ.
LISA KOBIALKA, ESQ.
JAMES HANNAH, ESQ.

KRAMER LEVIN NAFTALIS AND FRANKEL LLP
1177 Avenue of the Americas
New York, New York 10036
BY: CRISTINA LYNN MARTINEZ, ESQ.

(Appearances continued on next page)

Reported By: Katherine Powell Sullivan, CSR No. 5812, RMR, CRR
Jo Ann Bryce, CSR No. 3321, RMR, CRR
Official Reporters

APPEARANCES (CONTINUED):

For Defendant: IRELL & MANELLA LLP
1800 Avenue of the Stars, Suite 900
Los Angeles, California 90067-4276
BY: JONATHAN S. KAGAN, ESQ.
ALAN J. HEINRICH, ESQ.
JOSHUA GLUCOFF, ESQ.
CASEY CURRAN, ESQ.

IRELL & MANELLA LLP
840 Newport Center Drive, Suite 400
Newport Beach, California 92660
BY: REBECCA CARSON, ESQ.

200

1	<u>I N D E X</u>		
2	Tuesday, December 11, 2018 - Volume 2		
3	<u>PLAINTIFF'S WITNESSES</u>	<u>PAGE</u>	<u>VOL.</u>
4	<u>BIMS, HARRY (RECALLED)</u> (PREVIOUSLY SWORN)	224	2
5	Direct Examination resumed by Mr. Andre	225	2
6	Cross-Examination by Mr. Kagan	239	2
6	Redirect Examination by Mr. Andre	242	2
7	<u>HARTSTEIN, PHILIP</u> (SWORN)	243	2
8	Direct Examination by Ms. Kobialka	244	2
9	Cross-Examination by Ms. Carson	294	2
9	Redirect Examination by Ms. Kobialka	324	2
10	<u>KROLL, DAVID</u> (SWORN)	337	2
11	Direct Examination by Mr. Hannah	338	2
12	Cross-Examination by Mr. Heinrich	347	2
12	Redirect Examination by Mr. Hannah	359	2
13	<u>NAGARAJAN, CHANDRA</u> By Videotaped Deposition	364	2
14	<u>COLE, ERIC</u> (SWORN)	367	2
15	Direct Examination by Mr. Andre	368	2
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			

201

1	<u>I N D E X</u>		
2	<u>E X H I B I T S</u>		
3	<u>TRIAL EXHIBITS</u>	<u>IDEN</u>	<u>EVID</u> <u>VOL.</u>
4	1	338	2
5	22	363	2
6	23	363	2
7	57	388	2
8	74	391	2
9	91	283	2
10	342	279	2
11	372	263	2
12	382	384	2
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			

PROCEEDINGS

202

1 Tuesday - December 11, 2018

7:28 a.m.

2 PROCEEDINGS

3 -000-

4 (Proceedings were heard out of the presence of the jury:)

5 **THE COURT:** All right. Be seated.

6 Okay. I want to first -- I tried very hard but could
7 not -- I'm handing back to Juniper all of those depositions
8 that you handed me yesterday. I can't believe that the lead
9 partner on this case didn't look at this before you -- look at
10 how -- look at some of those. Some of them are so blue.
11 They're over -- the blue highlighting is so dark you cannot --
12 it's, like, redacted. And I tried my best with my weak eyes at
13 age 73 to read through the blue, and I could not. I finally
14 gave up. You've got to resubmit it.

15 The other thing that's wrong, this is less. Please tag
16 every place that needs a ruling. There were no tags.

17 **MR. KAGAN:** Your Honor, these had tags when we
18 submitted them. I'm not sure --

19 **THE COURT:** Well, they didn't. I didn't take any tags
20 off.

21 Did we take any tags off?

22 **THE LAW CLERK:** Those were e-mailed Sunday so we
23 printed them out.

24 **THE COURT:** Well, where's the stack that you -- I
25 didn't hear you. Come up here and tell me.

PROCEEDINGS

204

1 because it's got dark blue too. Please. So I was correct
2 about the dark blue. I can't read through that. It can't be
3 so dark that it's effectively redacted. It has to be a
4 different color or something. I don't know, pink and yellow,
5 light green, but not dark blue.

6 Okay. That's enough on that subject.

7 Next, I got motions overnight. I want you to know
8 something. You can't just bombard me with miscellaneous,
9 big-firm objections. And this is not a deposition. This is a
10 trial and you are acting like a big firm sending me multiple
11 motions overnight telling me to knock out their case. Well, I
12 don't have much patience for that.

13 That first one, Juniper's Objections to finjan's Request
14 to Present the Deposition Testimony of Shlomo Touboul. All
15 right. In very short order, tell me what your objection is

16 **MR. KAGAN:** So this is not a deposition that was taken
17 in this case. This is a deposition of their inventor from a
18 different case from 2015.

19 **THE COURT:** Is he still associated with Finjan?

20 **MR. KAGAN:** Yes, Your Honor.

21 **THE COURT:** No way we're going to let that. You've
22 got to bring him yourself. You can't get away with a
23 deposition from some other case.

24 **MR. ANDRE:** Your Honor --

25 **THE COURT:** Bring him from -- he lives in Israel;

PROCEEDINGS

203

1 Now, see, you're getting my law clerk in trouble. You
2 know that's going to be bad for you.

3 (Pause in proceedings.)

4 **THE COURT:** All right. So this stack right here, who
5 gave me that stack?

6 **MR. KAGAN:** This was from -- this was Finjan's
7 submission, Your Honor.

8 **THE COURT:** All right. Hand it to Finjan.

9 **MR. ANDRE:** Your Honor, these --

10 **THE COURT:** You're the one that's in trouble, and I'm
11 telling you I could not read that dark blue. I tried very
12 hard. I was almost going to give you an eye test to see if you
13 could read it right now.

14 All right. Now, that is impossible to read. So you've
15 got to resubmit it.

16 I did not -- I started trying to rule on them. I did make
17 a few rulings, but I'm just going to start over with a fresh
18 set.

19 My basic idea is all of it comes into evidence, but I am
20 not there yet. I should do my job and make rulings.

21 All right. So there. That's -- all right. So I
22 misunderstood.

23 Here, I got a different stack that looked exactly the
24 same. This one is from you and it does have the tags.

25 All right. Now, let's see -- but I'm handing it back

PROCEEDINGS

205

1 right?

2 **MR. ANDRE:** He lives in Israel.

3 **THE COURT:** Bring him. He's your guy. He's your
4 founder. He works for you. You can get him on an airplane and
5 get him over here. You're not going to get away with doing
6 that, no.

7 **MR. ANDRE:** Your Honor, he has blood clot issues in
8 his legs.

9 **THE COURT:** Too bad. Too bad.

10 **MR. ANDRE:** Okay.

11 **THE COURT:** He's your guy trying to make millions of
12 dollars off of this case.

13 **MR. ANDRE:** Your Honor, he's not --

14 **THE COURT:** That's what it is, and you're not going to
15 get away with an in-the-can -- the key guy, an in-the-can
16 presentation from some guy who deposed him in the year 2015 in
17 a different case. That's beyond the pale. Motion granted.

18 Next, Mathena, principal software engineer. Now, you
19 claim he's not an agent and so forth.

20 **MR. KAGAN:** He works -- we're hearing deposition read
21 from his supervisor.

22 **THE COURT:** All right. Let me ask you. Are you going
23 to present him yourself?

24 **MR. KAGAN:** No, Your Honor.

25 **THE COURT:** Why don't you just subpoena the guy?