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16 **UNITED STATES DISTRICT COURT**
17 **NORTHERN DISTRICT OF CALIFORNIA**
18 **SAN FRANCISCO DIVISION**

19 FINJAN, INC., a Delaware Corporation,) Case No. 3:17-cv-05659-WHA
20 Plaintiff,)
21 vs.) **DEFENDANT JUNIPER NETWORKS,**
22 JUNIPER NETWORKS, INC., a Delaware) **INC.'S MOTION FOR SUMMARY**
Corporation,) **JUDGMENT REGARDING CLAIM 9 OF**
23) **U.S. PATENT NO. 6,804,780**
24 Defendant.)
_____)

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NOTICE OF MOTION

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on May 2, 2019, at 8:00 a.m., or as soon thereafter as the matter may be heard, in Courtroom 12, 19th Floor, of the San Francisco Courthouse, 450 Golden Gate Avenue, San Francisco, California 94102, before the Honorable William Alsup, Defendant Juniper Networks, Inc. (“Juniper”) will and hereby does move for an order finding that claim 9 of U.S. Patent No. 6,804,780 (“Claim 9” of “the ’780 Patent”) is unpatentable under 35 U.S.C. § 101, that Juniper’s accused products do not infringe Claim 9, and that any damages available to plaintiff Finjan, Inc. (“Finjan”) are limited under 35 U.S.C. § 287. This motion is based on: this Notice of Motion; the Memorandum of Points and Authorities below; the Declaration of Rebecca Carson and exhibits attached thereto; the Declaration of Dr. Aviel D. Rubin attached hereto; the Declaration of Frank Jas attached hereto; all documents in the Court’s file, including the Declaration of Yuly Nerida Becerra Tenorio; and such other written or oral argument as may be presented at or before the time this motion is heard by the Court.

STATEMENT OF RELIEF REQUESTED

Juniper seeks an order holding that Juniper does not infringe Claim 9 based on any alleged making, using, selling, offering to sell, or importing SRX Series Services Gateway (“SRX”) products, the Sky Advanced Threat Prevention (“Sky ATP”) service, or ATP Appliance products (formerly sold under the Cyphort brand), individually or in combination with each other; that Claim 9 of the ’780 Patent is invalid as directed to unpatentable subject matter under 35 U.S.C. § 101; that damages for any potential infringement of Claim 9 by Juniper’s SRX and Sky ATP products are limited under 35 U.S.C. § 287 to those accrued based on acts of infringement occurring after September 29, 2017 (the filing of the complaint in this matter); and that no damages for any potential infringement of Claim 9 by the ATP Appliance are owed on account of Finjan’s failure to comply with 35 U.S.C. § 287 until after November 6, 2017 (the expiration date of the ’780 Patent).

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STATEMENT OF ISSUES TO BE DECIDED¹

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1. Whether Juniper’s SRX products do not infringe Claim 9.
2. Whether Juniper’s Sky ATP service does not infringe Claim 9.
3. Whether Juniper’s ATP Appliance products do not infringe Claim 9.
4. Whether the combination of Juniper’s SRX products with the Sky ATP service or ATP Appliance products do not infringe Claim 9.
5. Whether Claim 9 is invalid under 35 U.S.C. § 101.
6. Whether damages for any potential infringement of Claim 9 by Juniper’s SRX product and Sky ATP service are limited under 35 U.S.C. § 287 to those accrued after September 29, 2017 (the filing of the complaint in this matter).
7. Whether the damages for any potential infringement of Claim 9 by Juniper’s ATP Appliance product are foreclosed on account of Finjan’s failure to comply with 35 U.S.C. § 287 until after November 6, 2017 (the expiration date of the ’780 Patent).

¹ Claim 9 of the ’780 Patent is also invalid under 35 U.S.C. §§ 102 and 103 in view of additional prior art not discussed herein but which Juniper timely identified in its invalidity contentions under P.L.R. 3-3. Moreover, the fundamental differences between Juniper’s accused products and the ’780 Patent may provide several additional non-infringement arguments beyond those specifically addressed in this motion. If there is a trial on Claim 9, Juniper may make other invalidity or non-infringement arguments not specifically addressed in this motion. Juniper may also raise one or more affirmative defenses not addressed specifically in this motion.

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