

EXHIBIT 6

(FILED UNDER SEAL)

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

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FINJAN, Inc., a Delaware
corporation

Plaintiff,

vs. Case No. 3:17-cv-05659-WHA

JUNIPER NETWORKS, INC., a
Delaware corporation

Defendant.

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30(b)(6) VIDEOTAPED DEPOSITION OF

JOHN GARLAND

Thursday, May 24, 2018

Reported by:

COREY W. ANDERSON

CSR No. 4096

Job No. 2923791

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1 THE WITNESS: It's really outside my 09:50:51
 2 scope. 09:50:52
 3 BY MS. CARSON: 09:50:52
 4 **Q. Before Finjan filed those lawsuits, did 09:50:58**
 5 **Finjan do anything to confirm it had a reasonable 09:51:00**
 6 **basis for asserting infringement of the patents that 09:51:02**
 7 **were at issue in those lawsuits? 09:51:05**
 8 MS. KOBIALKA: Objection, form. 09:51:07
 9 THE WITNESS: Yeah, I think that's outside 09:51:09
 10 my scope where I'm handling licensing. But I can 09:51:10
 11 say that Finjan complies with everything it's 09:51:14
 12 required to comply with. 09:51:17
 13 BY MS. CARSON: 09:51:18
 14 **Q. Is it Finjan's policy to only maintain 09:51:26**
 15 **patent infringement claims in a lawsuit when it has 09:51:28**
 16 **a reasonable basis for maintaining those claims? 09:51:30**
 17 MS. KOBIALKA: Objection, form. 09:51:33
 18 THE WITNESS: I'm not sure, I -- I mean, I 09:51:36
 19 can continue to answer these questions, but I'm 09:51:38
 20 really questioning how we are talking about notice 09:51:40
 21 for marking. The topic of the deposition is notice 09:51:45
 22 and marking and I'm getting questions about 09:51:49
 23 litigation where I'm a licensing executive. 09:51:51
 24 BY MS. CARSON: 09:51:54
 25 **Q. Can you answer the question? 09:51:54**

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1 MS. KOBIALKA: I'm going to object to 09:51:56
 2 form. 09:51:57
 3 THE WITNESS: I need the question 09:51:58
 4 repeated. 09:51:58
 5 (Whereupon, the reporter read back 09:51:58
 6 the record as follows: 09:51:58
 7 "Is it Finjan's policy to only 09:51:59
 8 maintain patent infringement claims 09:51:59
 9 in a lawsuit when it has a 09:51:59
 10 reasonable basis for maintaining 09:51:59
 11 those claims?") 09:51:59
 12 MS. KOBIALKA: I object to the form of 09:52:16
 13 that question. 09:52:18
 14 THE WITNESS: I -- I can't answer the 09:52:21
 15 question. 09:52:21
 16 BY MS. CARSON: 09:52:22
 17 **Q. You don't know one way or another? 09:52:22**
 18 MS. KOBIALKA: Objection to form. 09:52:24
 19 THE WITNESS: I think, you know, you are 09:52:26
 20 starting to get into privilege and we are starting 09:52:29
 21 to get into, you know, beyond my scope of 09:52:30
 22 responsibilities. 09:52:34
 23 BY MS. CARSON: 09:52:35
 24 **Q. Does Finjan have standard terms for its 09:52:44**
 25 **licenses? 09:52:48**

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1 A. Can you be more specific? 09:52:50
 2 **Q. Does Finjan have a set of standard terms 09:52:58**
 3 **that it prefers to use in its licenses that it 09:53:01**
 4 **enters into with parties for the patents-in-suit? 09:53:04**
 5 MS. KOBIALKA: Objection to form. 09:53:09
 6 THE WITNESS: So I mean, we have a -- we 09:53:12
 7 have a stand -- what I'll call maybe a standard 09:53:21
 8 license agreement. But you know, obviously it's a 09:53:24
 9 negotiation, so it gets adjusted and tweaked through 09:53:26
 10 the back and forth with the licensee. 09:53:29
 11 BY MS. CARSON: 09:53:32
 12 **Q. Does Finjan's standard form include any 09:53:33**
 13 **provisions related to marking? 09:53:36**
 14 MS. KOBIALKA: Objection to form. 09:53:40
 15 THE WITNESS: So most of the license 09:53:46
 16 agreements I'm unfamiliar with the licensee usually 09:53:47
 17 requires this no admission of liability whether they 09:53:51
 18 have been found to infringe by the Federal Circuit 09:53:55
 19 or not. I mean, they have -- it seems to be a 09:53:58
 20 common practice now at least in the industry or, you 09:54:01
 21 know, by licensees to have this no admission of 09:54:07
 22 liability clause. 09:54:11
 23 So it's -- I don't know if it's standard 09:54:12
 24 or not. But it's -- if it's -- if it's admitted by 09:54:15
 25 Finjan, it's usually added by the licensee. 09:54:19

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1 BY MS. CARSON: 09:54:21
 2 **Q. Okay. So I don't know that that answers 09:54:23**
 3 **my question. I wasn't asking about a provision 09:54:25**
 4 **regarding whether the licensee admits liability. 09:54:27**
 5 **I was asking whether Finjan has any 09:54:32**
 6 **marking provisions in any of its licenses with its 09:54:35**
 7 **licensees. 09:54:39**
 8 MS. KOBIALKA: Objection to form. 09:54:40
 9 THE WITNESS: Yeah, and I'm saying the 09:54:41
 10 practice is the companies -- you know, they wouldn't 09:54:42
 11 accept it. They are basically asking for no 09:54:45
 12 admission of liability versus an acceptance to mark 09:54:48
 13 their products and services. 09:54:52
 14 BY MS. CARSON: 09:54:53
 15 **Q. So are you aware of any license that 09:54:54**
 16 **Finjan has with a licensee that includes a marking 09:54:55**
 17 **provision? 09:55:00**
 18 MS. KOBIALKA: Objection to form. 09:55:04
 19 THE WITNESS: I'm not aware of any. 09:55:07
 20 BY MS. CARSON: 09:55:10
 21 **Q. Does Finjan know whether any of its 09:55:13**
 22 **licensees practice the patents-in-suit? 09:55:17**
 23 MS. KOBIALKA: Objection to form. 09:55:25
 24 THE WITNESS: It would depend. 09:55:27
 25 BY MS. CARSON: 09:55:29

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1 no or you don't know. 15:59:49
 2 I'm not trying to direct his answer, but 15:59:50
 3 I'm trying to work through the privilege. If you 15:59:52
 4 are going to object, Counsel, I'll just stop and 15:59:53
 5 I'll just make an instruction. 15:59:57
 6 MS. CARSON: So I'm just trying to think 16:00:02
 7 through the issue because if he took like 16:00:03
 8 contemporaneous notes with a phone call he had with 16:00:05
 9 Juniper, I'm not sure how that would fall within the 16:00:08
 10 scope of privilege. 16:00:11
 11 MS. KOBIALKA: If his question's for 16:00:13
 12 counsel, absolutely. I think absolutely if you 16:00:14
 13 would take notes for purposes of getting legal 16:00:17
 14 advice, I do think that those notes -- 16:00:19
 15 MS. CARSON: Hmm. 16:00:24
 16 MS. KOBIALKA: -- would be privileged, 16:00:24
 17 especially like if these are the issues I need to 16:00:25
 18 talk about with counsel. 16:00:27
 19 MS. CARSON: Okay. Well, we'll just start 16:00:29
 20 with a yes or no, do they exist. 16:00:30
 21 MS. KOBIALKA: She is just asking whether 16:00:32
 22 or not they exist. You can answer that yes or no if 16:00:33
 23 you know one way or the other, you don't know, and 16:00:35
 24 then we'll take from it there. I don't want you to 16:00:38
 25 expound on it, is -- because I think that does get 16:00:40

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1 into privilege issues. 16:00:43
 2 THE WITNESS: I documented the summary of 16:00:52
 3 that call -- 16:00:53
 4 MS. KOBIALKA: Well, okay, so now, I want 16:00:54
 5 you to very careful because it starts to get into 16:00:56
 6 privilege issues. 16:01:00
 7 So you can answer the question yes or no 16:01:00
 8 or if you don't know, one way or the other. But I 16:01:03
 9 don't want to get -- 16:01:06
 10 THE WITNESS: I'm not going to get into 16:01:08
 11 substance, but just -- 16:01:09
 12 MS. KOBIALKA: She is only asking does it 16:01:10
 13 exist. Otherwise I'm going to instruct you not to 16:01:11
 14 answer. 16:01:14
 15 THE WITNESS: Yes, it exists. 16:01:17
 16 MS. KOBIALKA: Okay. 16:01:18
 17 BY MS. CARSON: 16:01:18
 18 **Q. Did you review it before your deposition 16:01:18**
 19 **today? 16:01:20**
 20 MS. KOBIALKA: Objection to form. 16:01:26
 21 THE WITNESS: Uh-huh. 16:01:29
 22 BY MS. CARSON: 16:01:30
 23 **Q. Did it refresh your recollection as to 16:01:30**
 24 **what occurred on the call? 16:01:31**
 25 MS. KOBIALKA: Objection to form. 16:01:33

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1 THE WITNESS: That call's pretty bright. 16:01:37
 2 That call's pretty bright, unique. 16:01:39
 3 BY MS. CARSON: 16:01:41
 4 **Q. So that wasn't an answer to the question. 16:01:41**
 5 **Did reviewing your notes from the call 16:01:43**
 6 **refresh your recollection as to what occurred on the 16:01:45**
 7 **call? 16:01:48**
 8 MS. KOBIALKA: Objection to form. 16:01:48
 9 THE WITNESS: Yes. Given it's November of 16:01:52
 10 2015, yes. 16:01:54
 11 MS. CARSON: Okay. So Counsel, we would 16:01:56
 12 request that that be produced given that it 16:01:57
 13 refreshed the recollection of the Rule 30(b)(6) 16:01:58
 14 witness. 16:02:01
 15 MS. KOBIALKA: He just said his memory was 16:02:02
 16 very bright from the call. He didn't say -- 16:02:04
 17 MS. CARSON: But he also said yes, it did 16:02:06
 18 refresh his recollection. We can take it up 16:02:08
 19 after -- after the deposition. 16:02:10
 20 **Q. Are you aware of any evidence that Juniper 16:02:52**
 21 **had notice of the '780 patent prior to Finjan filing 16:02:54**
 22 **this lawsuit? 16:02:59**
 23 MS. KOBIALKA: Objection to form. 16:03:00
 24 THE WITNESS: I need the question again, 16:03:06
 25 sorry. 16:03:07

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1 (Whereupon, the reporter read back 16:03:07
 2 the record as follows: 16:03:07
 3 "Are you aware of any evidence that 16:03:07
 4 Juniper had notice of the '780 16:03:07
 5 patent prior to Finjan filing this 16:03:07
 6 lawsuit?") 16:03:07
 7 THE WITNESS: Only Mr. Coonan's 16:03:23
 8 representation that he had done an invalidity 16:03:24
 9 analysis on the entire Finjan portfolio and as 16:03:29
 10 mentioned in the interrogatory about the '968 and 16:03:33
 11 the relationships of the patents. 16:03:35
 12 BY MS. CARSON: 16:03:40
 13 **Q. You are not aware of any instance where 16:03:40**
 14 **Finjan told Juniper either orally or in writing 16:03:43**
 15 **about the '780 patent and its infringement 16:03:46**
 16 **contentions related to that. 16:03:48**
 17 **Correct? 16:03:51**
 18 A. Correct. 16:03:52
 19 MS. KOBIALKA: Objection to form. 16:03:53
 20 BY MS. CARSON: 16:03:54
 21 **Q. Are you aware of any evidence that Juniper 16:04:00**
 22 **had notice of the '926 patent prior to this lawsuit 16:04:01**
 23 **being failed? 16:04:04**
 24 MS. KOBIALKA: Objection, form. 16:04:06
 25 THE WITNESS: Only what's in the 16:04:13

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