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Attorneys for Defendant
JUNIPER NETWORKS, INC.

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

FINJAN, INC.,

 Plaintiffs,

 v.

JUNIPER NETWORKS, INC.,

 Defendant.

) Case No. 3:17-cv-05659-WHA
)
) **JOINT STIPULATION REGARDING 35 U.S.C.**
) **§ 287; ~~PROPOSED~~ ORDER**
)
) Hon. William H. Alsup

1 Plaintiff Finjan, Inc. (“Finjan”) and Defendant Juniper Networks, Inc. (“Juniper”), hereby
2 stipulate as follows:

3 WHEREAS, for purposes of this litigation only, Finjan admits that it must establish
4 compliance with either the constructive or actual notice requirement of 35 U.S.C. § 287 in order to
5 obtain damages from Cyphort or Juniper on each of the claims that will be addressed at the
6 October 2019 trial;

7 WHEREAS, for purpose of this litigation only, Finjan does not intend to assert that it
8 complied with the constructive notice requirements of 35 U.S.C. § 287, and instead intends to
9 assert that it complied with the actual notice requirements of 35 U.S.C. § 287;

10 WHEREAS, for purposes of this litigation only, the parties agree that the damages period
11 for Juniper or Cyphort’s alleged infringement for each of the claims that will be addressed at the
12 October 2019 trial shall begin on the date that Finjan can establish that it provided Juniper or
13 Cyphort with actual notice under § 287(a);

14 NOW, THEREFORE, by and through their respective counsel of record, the parties hereby
15 stipulate and agree as follows:

- 16 • For purposes of this litigation only, the damages period for Juniper’s alleged
17 infringement shall begin on the date that Finjan can establish it provided Juniper
18 with actual notice under § 287(a). If Finjan is unable to establish that it provided
19 Juniper with actual notice under § 287(a) before patent expiration, Finjan will not
20 be entitled to damages for that patent.
- 21 • For purposes of this litigation only, the damages period for Cyphort’s alleged
22 infringement shall begin on the date that Finjan can establish it provided Cyphort
23 with actual notice under § 287(a). If Finjan is unable to establish that it provided
24 Cyphort with actual notice under § 287(a) before patent expiration, Finjan will not
25 be entitled to damages for that patent.

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IT IS SO STIPULATED.

Dated: July 12, 2019

KRAMER LEVIN NAFTALIS & FRANKEL LLP

By: /s/ Lisa Kobialka
Lisa Kobialka
Attorneys for Plaintiff
FINJAN, INC.

Dated: July 12, 2019

IRELL & MANELLA LLP

By: /s/ Rebecca Carson
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~~**PROPOSED**~~ **ORDER**

Pursuant to the stipulation of the parties, it is hereby ORDERED that, for purposes of this litigation only, no damages shall be recovered by Finjan except on proof that Finjan satisfied the actual notice requirements of § 287(a) before patent expiration, in which event damages may be recovered only for infringement occurring after such notice.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: July 16, 2019.



Hon. William H. Alsup
United States District Court Judge