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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

FINJAN, INC., a Delaware Corporation,)	Case No. 17-cv-05659-WHA
)	
Plaintiff,)	San Francisco, California
)	Courtroom A, 15th Floor
)	Wednesday, July 10, 2019
v.)	
)	
JUNIPER NETWORKS, INC., a Delaware Corporation,)	
)	
Defendant.)	

TRANSCRIPT OF TELEPHONIC DISCOVERY HEARING
BEFORE THE HONORABLE THOMAS S. HIXSON
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

For Plaintiff:	JAMES R. HANNAH, ESQ. Kramer Levin Naftalis & Frankel, LLP 990 Marsh Road Menlo Park, California 94025 (650) 752-1700
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1 SAN FRANCISCO, CALIFORNIA WEDNESDAY, JULY 10, 2019 2:02 P.M.

2 --oOo--

3 (Call to order of the Court.)

4 THE CLERK: All right, everyone. We're here in Civil
5 Action 17-5659, Finjan, Inc. v. Juniper Networks, Inc. Counsel,
6 please state your appearances. Let's start with the Plaintiff.

7 MR. HANNAH: Good afternoon, Your Honor. This is James
8 Hannah on behalf of Finjan.

9 THE COURT: Good afternoon.

10 MR. WANG: Good afternoon, Your Honor. This is -- oh,
11 hi. Good afternoon, Your Honor. This is Kevin Wong with Irell &
12 Manella, counsel for Juniper Networks. I'm also joined with
13 Joshua Glucoft also at Irell & Manella as counsel for Juniper.

14 THE COURT: Good afternoon. I'm just writing down the
15 names of people. Okay. So I understand that there's an issue
16 that the parties wanted to raise. Who wants to frame it for me?

17 MR. HANNAH: Your Honor, so this is James Hannah on
18 behalf of Finjan. So what we have here is a situation where our
19 CEO, Phil Hartstein, is going to be a 30(b)(6) witness for certain
20 topics that Juniper gave us. Unfortunately, Mr. Hartstein is on
21 a preplanned family vacation. And the earliest that we can get
22 him for deposition is July 16th, which is one day after the fact
23 discovery cutoff.

24 And so we've offered to put him up on July 16th and, in
25 response, Juniper stated that they wanted an extra day to submit

1 their expert reports. And I said that that would be completely
2 fine. However, it had to be useful. I wouldn't say -- I'm not
3 going to allow Juniper an entire -- see, what happens, if we
4 extend it by one day, they'd get it over the weekend and moves the
5 opening reports to a Monday, and they wanted us to give them an
6 extension of one day just for their reports, not for both of our
7 reports. And I vehemently disagreed.

8 As Your Honor probably knows, there's a reason why opening
9 reports are due on the same day for both parties for validity and
10 for infringement, and it's so that one party can't tailor their
11 expert reports to respond to the other's in the opening report.
12 You know, you have to follow the schedule and you get, you know,
13 your chance to rebut the other side (indiscernible) with your
14 rebuttal report.

15 And by -- I'm fine with the extension of a day. That's no
16 problem. But it's got to be mutual. It can't be our reports are
17 due on Friday and their reports are due on Monday.

18 THE COURT: Counsel, let me stop you right here. I
19 can't modify Judge Alsup's case management order, so I can't
20 authorize depositions beyond the date that he set as the close of
21 fact discovery. I can't change the deadline for expert reports.
22 The dates in the fourth amended case management order, the only
23 person who can change those is Judge Alsup.

24 MR. HANNAH: Okay.

25 THE COURT: So is there anything you want me to do that

1 doesn't involve changing dates in this case management order?

2 (Pause.)

3 MR. HANNAH: I'm not -- I guess -- I guess not. I mean,
4 it would be the permission to -- we viewed this to be -- we
5 thought it would be a discovery issue, which is why I think
6 (indiscernible) reached out. But if it's not, then I guess we'll
7 go the route of -- with Judge Alsup.

8 I mean, it would be this permission to have the deposition
9 the day on July 16th. And then --

10 THE COURT: Yeah. I know that the discovery referral
11 came to me. But I do have to manage discovery within the bounds
12 of the District Judge's case management order. So I wish I could
13 help you out, but apologies. I simply can't.

14 MR. WANG: Your Honor, may I be heard? This is counsel
15 for Juniper.

16 THE COURT: Sure.

17 MR. WANG: Juniper is asking that Finjan produce its
18 witnesses within the fact discovery cutoff. At this point, the
19 parties haven't been able to come to an agreement to move back
20 fact discovery cutoff, to change expert report deadlines. And so
21 what we're asking for is to have Finjan produce its 30(b)(6)
22 witnesses and we noticed these topics, you know, about a month ago
23 and so that's the recovery that we're seeking, which I do believe
24 that you can grant.

25 In the alternative, we're open to discussing, you know, and

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