

United States District Court
Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

FINJAN, INC.,

Plaintiff,

No. C 17-05659 WHA

v.

JUNIPER NETWORK, INC., et al.,

Defendants.

**ORDER APPOINTING SPECIAL
MASTER**

A January 9 order found patent owner Finjan, Inc.’s prosecution of this case exceptional and defendant Juniper Network, Inc. entitled to a degree of attorney’s fees under 35 U.S.C. § 285. A companion order notified both sides that the Court was inclined to appoint Attorney Matt Borden as special master to determine a reasonable fees and costs award, and gave both sides until January 28 to object or request to be heard (Dkt. No. 649). Neither side objects to the appointment (Dkt. Nos. 652, 653). Attorney Borden has conducted a conflicts check for potential grounds for disqualification and, by special accommodation of the Court, has agreed to serve at the reduced rate of \$300 per hour. Accordingly, it is hereby ordered:

1. **ATTORNEY BORDEN IS HEREBY APPOINTED AS SPECIAL MASTER** to determine, with all reasonable diligence, the reasonable amount of attorney’s fees and costs which Finjan shall pay to Juniper. He shall have all powers set forth in Federal Rule of Civil Procedure 53(c) with respect to this dispute but shall not revisit prior rulings in this case.

1 2. The procedure set forth in the January 9 order (Dkt. No. 649) is incorporated into
2 and deemed a part of this order. Attorney Borden may set a briefing and argument schedule as
3 he deems appropriate. The parties shall provide the special master with electronic text-
4 searchable copies of all documents relevant to this dispute and shall provide print copies (such as
5 a tabbed binder for attorney-billing records) to an appropriate address as Attorney Borden shall
6 request.

7 3. By **MAY 20 AT NOON**, the special master shall file a written report and
8 recommendation that includes his proposed findings and the recommended award of attorney's
9 fees and costs to which Juniper is entitled. His report should identify all amounts disallowed and
10 state whether the amounts disallowed qualify for treble deduction, per the order granting the
11 motion for fees.

12 4. Any objections to or motions regarding the special master's report and
13 recommendation must be filed by **JUNE 10 AT NOON**, to be heard on the normal 35-day track, and
14 shall not exceed **25 PAGES** in length. The response to any such objection or motion shall be due
15 **SEVEN DAYS** from the filing thereof and shall also not exceed **25 PAGES** in length. No reply
16 briefing, please.

17 5. The Court will then review and consider any timely objections to or motions
18 regarding the special master's report and recommendation pursuant to Rule 53(f). An order will
19 follow.

20 6. *Ex parte* communications with the special master should be avoided if possible.
21 Any objection to an *ex parte* communication or motion to disqualify must be filed within **SEVEN**
22 **CALENDAR DAYS** of discovery.

23 7. Objections to this order shall be filed by **FEBRUARY 18 AT NOON**. Any proposed
24 modification to this order must be promptly raised in a joint letter brief, not to exceed **THREE**
25 **PAGES** in length, to be filed only after the parties have met and conferred — either in person or
26 telephonically — under the special master's supervision.

27 8. Attorney Borden shall please indicate his acceptance of this reference as special
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I accept this appointment and reference:

MATT BORDEN
SPECIAL MASTER

IT IS SO ORDERED.

Dated: February 2, 2021.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE

United States District Court
Northern District of California