

EXHIBIT 1

(REDACTED VERSION OF
DOCUMENT SOUGHT TO BE SEALED)

IRELL & MANELLA LLP
Jonathan S. Kagan (SBN 166039)
jkagan@irell.com
1800 Avenue of the Stars, Suite 900
Los Angeles, California 90067-4276
Telephone: (310) 277-1010
Facsimile: (310) 203-7199

Rebecca Carson (SBN 254105)
rcarson@irell.com
Ingrid M. H. Petersen (SBN 313927)
ipetersen@irell.com
840 Newport Center Drive, Suite 400
Newport Beach, California 92660-6324
Telephone: (949) 760-0991
Facsimile: (949) 760-5200

Attorneys for Defendant
JUNIPER NETWORKS, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

FINJAN, INC., a Delaware Corporation,)	Case No. 3:17-cv-05659-WHA
)	
Plaintiff,)	
)	
vs.)	DECLARATION OF JONATHAN S.
)	KAGAN IN SUPPORT OF
JUNIPER NETWORKS, INC., a Delaware)	REQUEST FOR FEES AND
Corporation,)	EXPENSES
)	
Defendant.)	Submitted to the Special Master

DECLARATION OF JONATHAN S. KAGAN

I, Jonathan S. Kagan, declare as follows:

1. I am an attorney at the law firm of Irell & Manella LLP, counsel of record for Juniper Networks, Inc. in *Finjan, Inc. v. Juniper Networks, Inc.*, Case No. C 17-05659 WHA (N.D. Cal.). I am a member in good standing of the State Bar of California. I have personal knowledge of the facts set forth in this Declaration and, if called as a witness, could and would testify competently to such facts under oath.

2. Pursuant to ¶¶ 2-3 of Judge Alsup's Order re Attorney's Fees and Costs and Appointment of Special Master dated January 9, 2021, (the "Referral Order") Defendant Juniper Networks, Inc. ("Juniper") hereby presents this detailed declaration setting forth the "itemized accounting" of unreimbursed "Travel" and "Expert Witness Fees" expenses (Referral Order ¶ 2), as well as a breakdown of "all attorney and paralegal time sought to be recovered." (Referral Order ¶ 3). As set forth in greater detail below, this declaration does not detail the full scope of fees and expenses Juniper incurred in connection with Plaintiff Finjan, Inc.'s ("Finjan") assertion of U.S. Patent Nos. 8,677,494 (the "'494 Patent") and 6,804,780 (the "'780 Patent") against Juniper.

SCOPE OF DECLARATION

3. Although Finjan asserted a total of 9 patents against Juniper at various times during its three-year litigation campaign against Juniper, it litigated only three of those patents to a conclusion: (1) the '494 Patent; the '780 Patent, and U.S. Patent No. 8,141,154 (the "'154 Patent") (collectively, the "Adjudicated Patents"). Of these, the '494 Patent consumed the vast majority of legal work, as it was the subject of an early motion for summary judgment, a highly contested (and ultimately successful) *Daubert* challenge to Finjan's damages expert, and a week-long jury trial on infringement. Following the jury trial, the parties began preparing immediately for a second trial on the '494 Patent relating to validity and enforceability issues. The Court then postponed that trial, determining that all outstanding issues relating to the '494 Patent could be adjudicated at a later date—in a single trial that would also involve all of the remaining non-

5. The records used to produce this declaration are all based on contemporaneous time records that are prepared on a monthly basis and were submitted to Juniper for payment. These time records are generally prepared within 30 days following the end of the month in which the time was expended. Estimates and retroactively-created time records were not used to prepare this declaration.

6. In an effort to avoid the expense and burden associated with a line-by-line review of over three years of time entries in an aggressively-litigated case (including four summary judgment motions, complex *Daubert* issues, and a full jury trial)—Juniper’s initial fees submission consisted of summaries of its time entries, organized by phase of the case, with a generous amount of reductions to ensure its proposed recovery was fair. The reductions Juniper proposed were:

- DOCKET**
ALARM

- c. Omitting fees charged by non-attorneys, such as paralegals and other Irell & Manella support staff, and seeking fees for attorney billers only;
- d. Excluding fees related to *inter partes* review proceedings regarding Finjan's patents;
- e. Excluding fees related to settlement and mediation efforts;
- f. Excluding fees related to preparing Juniper's pending motion for sanctions (Dkt. 409);
- g. Not seeking expert fees or any third party costs;
- h. Exercising reasonable judgment to exclude time spent on administrative or internal tasks, such as internal meetings between counsel; and
- i. Exercising reasonable judgment to exclude supervisory time associated with having junior attorneys take depositions and/or argue motions.

7. While Judge Alsup's Fees Order held that Juniper could recover its fees and costs related to litigation of the '780 and '494, it also provided that Juniper could not recover fees and costs relating to the '154 Patent (nor the non-adjudicated patents). This Order thus precluded the summary procedure Juniper had suggested, as Juniper had not broken down its fees and expenses by patent. Judge Alsup thus ordered Juniper to produce an itemized accounting of its "Travel" and "Expert Witness Fees" (Referral Order ¶ 2), as well as a line-by-line breakdown of all recoverable attorney and paralegal time (Referral Order ¶ 3).

8. The Referral Order also requires Junipert to provide proof that it exercised "billing judgment" in this declaration, including "adjustments made to eliminate duplication, excess, associate-turnover expense and so forth." (Referral Order ¶ 6).

9. In preparing this declaration, I personally reviewed each and every time entry submitted, as well as many that were billed to Juniper but are not included in this submission. In addition to writing off all time entries related only to the '154 Patent (or any non-adjudicated patent), I also wrote off a significant number of entries where, in the exercise of my judgment, there were inefficiencies in performing the tasks. In addition, I have continued to apply each of the reductions described in ¶ 6, above, with the only exception being that I have included third

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.