

# EXHIBIT 5

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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

FINJAN, INC.,

Plaintiff,

v.

JUNIPER NETWORKS, INC.,

Defendant.

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

SUBMITTED TO  
THE SPECIAL MASTER

**FINJAN'S SUMMARY OF OBJECTIONS**

Finjan appreciates the special master's time and attention in evaluating the parties' submissions on fees. As Finjan described in its written submissions and on teleconferences, Juniper's fees submission is unreasonable in several respects. These are laid out in detail in Finjan's written submissions, and are summarized here for the special master's convenience:

- First, Juniper's submission seeks fees incurred prior to the orders that were the basis for the Court's exceptionality determination. Such fees are not appropriate because prior to those orders, neither Finjan nor Juniper were on notice that the Court would interpret the '494 and '780 patents in the manner that it did.
- Second, Juniper's submission seeks fees on issues where there was no determination of exceptionality, including but not limited to fees on '494 patent liability issues (the Court found exceptionality only on '494 patent damages) and on various discovery and other case-general matters.
- Third, Juniper's submission seeks an unreasonably high number of hours for projects that could and should have been performed more efficiently. The details of Juniper's deficiency in this respect are in Finjan's written submissions and were discussed on the teleconference calls convened by the Special Master.
- Fourth, Juniper's submission seeks an unreasonably high dollar figure because Juniper's litigation team gave excessive work to high-billing-rate lawyers, when lawyers with lower billing rates could and should have been used, as shown by comparison with billing records from Finjan's trial counsel Kramer Levin. Finjan opposes Juniper's contention the Kramer Levin records support Juniper's submission, and opposes Juniper's contention that lawyers are comparable whenever they graduated law school in the same year. Comparability is better established by the lawyer's normal billing rate, as shown in Finjan's submissions.
- Fifth, Juniper's submission improperly seeks recovery of expert and travel fees that are improper under the Court's orders and not awardable under § 285, as discussed on calls and in Finjan's written submissions.
- Sixth, Juniper's submission applies unreasonably high apportionments to activities not specifically related to the '494 and '780 patents. This particularly includes unreasonably high apportionments for fact discovery, but also unreasonably high apportionments for pleadings and general diligence. Such non-patent-specific activities should be apportioned according to the total number of patents in the case.

This list is illustrative, and not exhaustive, and it supplements Finjan's written submissions and the content of the calls. Finjan reserves all arguments that Juniper's submission is incompatible with the Court's orders, the law of exceptionality and fee-shifting, and reasonable practice. Finjan hopes this list is useful to the special master.

Dated: May 18, 2021

Respectfully Submitted,

By: /s/ Robert Courtney

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the above and foregoing document was served via email on May 18, 2021 on each of the following:

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*/s/ Robert Courtney*  
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