

1 PAUL J. ANDRE (State Bar No. 196585)
pandre@kramerlevin.com
2 LISA KOBIALKA (State Bar No. 191404)
lkobialka@kramerlevin.com
3 JAMES HANNAH (State Bar No. 237978)
jhannah@kramerlevin.com
4 KRISTOPHER KASTENS (State Bar No. 254797)
5 kkastens@kramerlevin.com
6 KRAMER LEVIN NAFTALIS & FRANKEL LLP
7 990 Marsh Road
8 Menlo Park, CA 94025
9 Telephone: (650) 752-1700
10 Facsimile: (650) 752-1800
11 *Attorneys for Plaintiff*
12 FINJAN, INC.

11 **IN THE UNITED STATES DISTRICT COURT**
12 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
13 **SAN FRANCISCO DIVISION**

15 FINJAN, INC., a Delaware Corporation,
16
17 Plaintiff,
18 v.
19 JUNIPER NETWORKS, INC., a Delaware
20 Corporation,
21 Defendant.

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

**DECLARATION OF KRISTOPHER
KASTENS IN SUPPORT OF PLAINTIFF
FINJAN, INC.'S NOTICE OF MOTION
AND MOTION FOR LEAVE TO AMEND
ITS COMPLAINT**

Date: May 3, 2018
Time: 8:00 am
Judge: Honorable William Alsup
Dept.: Courtroom 12, 19th Floor

1 I, Kristopher Kastens, declare:

2 1. I have personal knowledge of the facts stated herein.

3 2. I am licensed to practice law in the State of California and am an attorney at Kramer
4 Levin Naftalis and Frankel LLP, counsel of record for Finjan, Inc. (“Finjan”). I make this declaration
5 in support of Plaintiff Finjan, Inc.’s Notice of Motion and Motion for Leave to Amend its Complaint.

6 3. Attached hereto as **Exhibit 1** is a true and correct copy of the Amended Complaint that
7 Finjan seeks leave to file in this case.

8 4. Attached hereto as **Exhibit 2** is a true and correct copy of excerpts from Juniper
9 Networks, Inc.’s (“Juniper”) Form 10-Q for the quarterly period ending on September 30, 2017, filed
10 on November 7, 2017.

11 5. Attached hereto as **Exhibit 3** is a true and correct copy of an excerpt from Juniper
12 Networks webpage entitled “Network Security Solutions”, dated December 14, 2017, available at
13 [https://web.archive.org/web/20171214181822/https://www.juniper.net/us/en/products-](https://web.archive.org/web/20171214181822/https://www.juniper.net/us/en/products-services/security/)
14 [services/security/](https://web.archive.org/web/20171214181822/https://www.juniper.net/us/en/products-services/security/).

15 6. Attached hereto as **Exhibit 4** is a true and correct copy of a screenshot of a Juniper
16 Networks youtube video entitled “Juniper Advanced Threat Prevention Appliance” published on April
17 2, 2018, available at <https://youtu.be/LCM1PRdK0Tg> showing ATP Appliance.

18 7. Attached hereto as **Exhibit 5** is a true and correct copy of a press release entitled
19 “Media Alert: Juniper Networks to Showcase its Unified Cybersecurity Platform and Industry Insights
20 at RSA 2018,” dated April 12, 2018, available at: [https://www.nasdaq.com/press-release/media-alert-](https://www.nasdaq.com/press-release/media-alert-juniper-networks-to-showcase-its-unified-cybersecurity-platform-and-industry-insights-20180412-01027)
21 [juniper-networks-to-showcase-its-unified-cybersecurity-platform-and-industry-insights-20180412-](https://www.nasdaq.com/press-release/media-alert-juniper-networks-to-showcase-its-unified-cybersecurity-platform-and-industry-insights-20180412-01027)
22 [01027](https://www.nasdaq.com/press-release/media-alert-juniper-networks-to-showcase-its-unified-cybersecurity-platform-and-industry-insights-20180412-01027).

23 8. Counsel for Finjan finalized its infringement contentions in February 2018 and
24 discovered that Juniper was offering the ATP Appliance as a new addition to its ATP suite of products,
25 which previously only included the Sky ATP service.

26 9. Attached hereto as **Exhibit 6** is a true and correct copy of a Juniper Networks data sheet
27 entitled “Juniper Sky Advanced Threat Prevention.”

1 10. Attached hereto as **Exhibit 7** is a true and correct copy of a Juniper Networks data sheet
2 entitled “Advanced Threat Prevention Appliance.”

3 11. ATP Appliance included technology for static and dynamic analysis in a sandbox,
4 which was also offered by Juniper’s Sky ATP service that Finjan accused in its Complaint.

5 12. Attached hereto as **Exhibit 8** is a true and correct copy of Plaintiff Finjan, Inc.’s First
6 Set of Requests for Production of Documents to Defendant Juniper Networks, Inc. (Nos. 1-60), dated
7 February 23, 2018.

8 13. Attached hereto as **Exhibit 9** is a true and correct copy of Plaintiff Finjan, Inc.’s First
9 Set of Interrogatories to Defendant Juniper Networks, Inc. (Nos. 1-3), dated February 23, 2018.

10 14. Attached hereto as **Exhibit 10** is a true and correct copy of Finjan’s Initial Disclosure of
11 Asserted Claims and Infringement Contentions (“Infringement Contentions”), served on March 8,
12 2018.

13 15. Attached hereto as **Exhibit 11** is a true and correct copy of Appendix F-3 to Finjan’s
14 Infringement Contentions, served on March 8, 2018.

15 16. Attached hereto as **Exhibit 12** is a true and correct copy of Appendix B-3 to Finjan’s
16 Infringement Contentions, served on March 8, 2018.

17 17. Attached hereto as **Exhibit 13** is a true and correct copy of an e-mail chain between
18 counsel for Finjan, Austin Manes, and counsel for Juniper, Josh Glucoft, dated March 22, 2018.

19 Attached hereto as **Exhibit 14** is a true and correct copy of an e-mail chain between counsel for
20 Juniper, Josh Glucoft, and between counsel for Finjan, Austin Manes, dated March 22, 2018.

21 18. Attached hereto as **Exhibit 15** is a true and correct copy of excerpts from Defendant
22 Juniper Networks, Inc.’s Response to Plaintiff Finjan, Inc.’s First Set of Requests for Production, dated
23 March 26, 2018.

24 19. Attached hereto as **Exhibit 16** is a true and correct copy of the e-mail exchange
25 between myself and Josh Glucoft, counsel for Juniper Networks, Inc., dated March 27, 2018.

26 20. Juniper asserted that it was not available to meet and confer until the following week on
27 April 3rd.

1 21. During this meet and confer, Finjan explained that Finjan properly named the ATP
2 Appliance and requested that Juniper provide its basis for refusing discovery into the product.

3 22. Juniper refused to provide discovery on the ATP Appliance unless Finjan amended its
4 Complaint.

5 23. Finjan requested that Juniper stipulate to amend its complaint to specifically identify the
6 ATP Appliance, but Juniper stated that it would only stipulate to such an amendment if Finjan agreed
7 to exclude the ATP Appliance from early summary judgment.

8 24. The Court held a hearing on April 17th, where it indicated that Finjan should amend its
9 complaint to include the ATP Appliance if it wants to assert the ATP Appliance in this case.

10 25. Finjan met and conferred with counsel for Juniper in person immediately after the April
11 17th hearing and filed this motion to amend only two days later on April 19, seeking leave for limited
12 amendments to its complaint to include the ATP Appliance.

13 26. The first deposition in this case is scheduled for May 9, 2018.

14 27. Attached hereto as **Exhibit 17** is a true and correct copy of the transcript of the
15 proceedings held on February 22, 2018.

16 28. Attached hereto as **Exhibit 18** is a true and correct copy of a redline version of the
17 proposed Amended Complaint.

18
19 I declare under penalty of perjury under the laws of the United States of America that each of
20 the above statements is true and correct. Executed on April 19, 2018, in Menlo Park, California.

21 */s/ Kristopher Kastens* _____
22 Kristopher Kastens
23
24
25
26
27
28