

# EXHIBIT 16

**From:** Kastens, Kris  
**Sent:** Tuesday, March 27, 2018 4:47 PM  
**To:** Glucoft, Josh  
**Cc:** Andre, Paul; Kobialka, Lisa; Hannah, James; Kagan, Jonathan; Carson, Rebecca; Wang, Kevin; Holland, Eileen; Manes, Austin; Curran, Casey; Manes, Austin; Lee, Michael H.  
**Subject:** RE: Finjan v. Juniper - Discovery

Josh,

We write regarding Juniper's refusal to provide discovery into the ATP Appliance and Spotlight Secure. We understand that Juniper refuses to provide any discovery into these products because it contends they were not properly identified by Finjan in its complaint. Juniper is incorrect that these products were not properly identified. First, Finjan identified and described the dynamic analysis functionality in Sky ATP in its complaint, which includes the same type of functionality provided in the ATP Appliance. See Dkt. 1 at Pars. 45-50. Additionally, the Spotlight Secure is part of Sky ATP, and was therefore properly identified as well.

Furthermore, as required under the Patent Local Rules, Finjan properly identified both products in great detail in its March 8, 2018, infringement contentions, which set forth the basis for Finjan's infringement allegations. See PLR 3-1. As such, these products were properly and timely disclosed to Juniper and are part of this case.

As such, confirm by end of the day tomorrow that Juniper will agree that these products are in the case and that it will provide discovery into them, or provide a date this week to meet and confer. I am available Thursday, March 29th between 3PM-5PM and Friday, March 30th between 10AM-Noon and 2PM-4PM.

Sincerely,  
Kris

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**From:** Kastens, Kris  
**Sent:** Monday, March 26, 2018 9:53 AM  
**To:** Glucoft, Josh  
**Cc:** Andre, Paul; Kobialka, Lisa; Hannah, James; Kagan, Jonathan; Carson, Rebecca; Wang, Kevin; Holland, Eileen; Manes, Austin; Curran, Casey; Manes, Austin; Lee, Michael H.  
**Subject:** RE: Finjan v. Juniper - Discovery

Josh,  
We write regarding a number of outstanding discovery issues.

Deficiencies in Juniper's Document and Source Code Production

Juniper's document production remains deficient. For example, we still have not received any confidential design or development documents from Juniper related to the accused products. Confirm that Juniper will produce these documents by March 30.

Juniper's source code production is deficient as well. First, it does not appear that key source code was produced, including:

- source code for dynamic analysis/sandbox in Sky APT
- source code for Juniper's ExpressAV
- rules/patterns used for static and dynamic analysis in Sky ATP, ExpressAV
- metadata for the source code. Metadata was removed, as the last modified date for nearly every file is the same

Juniper also needs to untar or decompress the .tgz files in the following directory and subdirectories so that they can be reviewed:

- Review\JUNOS\17.4R1.16\17.4R1.16\src\dstfiles\

Confirm that Juniper will address these issues and also make the ATP Appliance source code available for inspection by April 10.

We have also identified technical documents in Juniper's source code that appear to be improperly withheld as source code and must be produced under a lower designation. As such, confirm that the following documents will be produced by March 30:

- Help documents (e.g. help-summary.html) from the following directory:
  - Review\JUNOS\17.4R1.16\17.4R1.16\src\doc\online\html\

Furthermore, the search capability that was provided by Juniper is insufficient. Juniper did not provide an indexed search tool ([https://en.wikipedia.org/wiki/Search\\_engine\\_indexing](https://en.wikipedia.org/wiki/Search_engine_indexing)), despite Finjan's request for one. As a result, searching takes an inordinate amount of time and the contents of files cannot be searched. Furthermore, it appears that Juniper has not activated the search functionality in the UltraEdit program (the UltraFinder functionality). Confirm that Juniper will address this before the next source code review.

Finally, Finjan identifies Andy Jian and Michael Lee for reviewing Juniper's source code starting on Tuesday, April 10<sup>th</sup> and continuing each day until Friday, April 13<sup>th</sup>.

#### Finjan's Production of Documents and Third Party Confidential Information

Finjan has produced tens of thousands of pages to Juniper, including prosecution histories, thousands of pages of confidential technical documents, other internal documentation, and invalidity contentions. Finjan has also already made its source code available for inspection. As such, we expect that the majority of Finjan's non-ESI and non-third party confidential production was completed weeks ago.

Second, we have not seen a response from Juniper to Intel's outside counsel (Jason Choy) accepting Intel's conditions on the production of its license. If Juniper agrees with these conditions send a confirmation to Mr. Choy and include us on the email. Further, we have not received any confirmation that Juniper has spoken to counsel for Symantec/Blue Coat (Robin Brewer) about its license, as we indicated was necessary last week. If you reached agreement with Symantec/Blue Coat, please send an email confirming this that includes me and counsel for Symantec/Blue Coat. Finjan is ready to produce these documents and is waiting on action from Juniper. Finjan will also prepare a provision specific to the Proofpoint license in the Protective Order and will produce its agreement with Aladdin (which is not a license).

Third, we strongly disagree that Finjan is late on providing notice to third parties. As shown in my March 16<sup>th</sup> email, we reached out to Juniper soon after we received Juniper's RFPs requesting third-party confidential information to see if the scope of the requests could be narrowed. We met and conferred last Monday about this and were expecting confirmation from Juniper on how it would narrow its requests. However, we understand from your last email that you are not agreeing to narrow any of your requests in any way, and we will start providing expedited notice to those affected third parties starting today, more than a week before Finjan's objections to these RFPs are even due. As we noted on our call, we expect that these third parties will object to Juniper's current requests if they are not narrowed. As such, we will provide your contact information to the notified third parties to discuss Juniper's requests.

Fourth, Finjan agreed to produce expert reports and Finjan employee deposition transcripts that did not include third party confidential information on an expedited basis, which it did last Monday. The remaining expert reports and deposition transcripts include confidential information of third parties and will be produced subject to our objections and after we provide notice to those third parties, which we are providing on an expedited basis.

Sincerely,  
Kris

Kris Kastens  
Associate

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**From:** Glucoft, Josh [<mailto:JGlucoft@irell.com>]

**Sent:** Wednesday, March 21, 2018 2:08 PM

**To:** Kastens, Kris

**Cc:** Andre, Paul; Kobialka, Lisa; Hannah, James; Kagan, Jonathan; Carson, Rebecca; Wang, Kevin; Holland, Eileen; Manes, Austin; Curran, Casey; Manes, Austin; Lee, Michael H.; #Juniper/Finjan [Int]

**Subject:** [EXTERNAL] RE: Finjan v. Juniper - Discovery

Kris,

Juniper confirms that it will not share confidential third party licenses with Designated House Counsel for those third parties that object to such disclosure. This confirmation should suffice for you to produce the licenses for Webroot, Secure Computing, and McAfee. As I discussed on my call today with Austin, please send us the language for the PO addendum to satisfy Proofpoint's request, and please put us in contact with Symantec so that we can confirm with them. Please confirm that Finjan has no agreement with Aladdin transferring an interest in any patent-in-suit as you suggested on our call, and please confirm that Finjan has not withheld any other agreements transferring an interest in any patent-in-suit.

As for our discovery requests, Juniper is not narrowing the scope of any of its requests for production, so Finjan should promptly provide notice to potentially affected third parties, which Finjan should have done weeks ago.

In light of the expedited nature of this proceeding, we have produced the key documentation identified by Finjan—Juniper's highly confidential source code—more than a month in advance of when such production is otherwise contemplated under the Patent Local Rules. Finjan must reciprocate its diligence and produce the key documentation we identified that is readily available to Finjan. Finjan has already delayed by failing to promptly provide notice to third parties, and it appears that Finjan is seeking to delay producing even non-confidential documentation we identified. Specifically, we sought expedited production of documents related to patent marking, which includes licensee correspondence such as infringement charts, but Finjan has offered to produce only "Documents showing marking" even though any such infringement charts or licensee correspondence are not confidential information. Likewise, we identified as key documentation deposition transcripts of Finjan experts related to any of the patents-in-suit, but Finjan has not offered to produce any expert deposition transcripts, even those related to invalidity that are not confidential. Please

confirm that Finjan will promptly produce this critical documentation in full, and please confirm that Finjan will promptly provide notice to potentially affected third parties as Finjan is required under the Interim Model Protective Order.

Thanks,  
Josh

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**From:** Kastens, Kris [<mailto:KKastens@KRAMERLEVIN.com>]  
**Sent:** Friday, March 16, 2018 4:02 PM  
**To:** Glucoft, Josh <[JGlucoft@irell.com](mailto:JGlucoft@irell.com)>  
**Cc:** ~Andre, Paul <[pandre@kramerlevin.com](mailto:pandre@kramerlevin.com)>; ~Kobialka, Lisa <[lkobialka@kramerlevin.com](mailto:lkobialka@kramerlevin.com)>; ~Hannah, James <[jhannah@kramerlevin.com](mailto:jhannah@kramerlevin.com)>; Kagan, Jonathan <[JKagan@irell.com](mailto:JKagan@irell.com)>; Carson, Rebecca <[RCarson@irell.com](mailto:RCarson@irell.com)>; Wang, Kevin <[kwang@irell.com](mailto:kwang@irell.com)>; Holland, Eileen <[EHolland@irell.com](mailto:EHolland@irell.com)>; ~Manes, Austin <[amanes@kramerlevin.com](mailto:amanes@kramerlevin.com)>; Curran, Casey <[ccurran@irell.com](mailto:ccurran@irell.com)>; ~Manes, Austin <[amanes@kramerlevin.com](mailto:amanes@kramerlevin.com)>; ~Lee, Michael <[mhlee@kramerlevin.com](mailto:mhlee@kramerlevin.com)>  
**Subject:** RE: Finjan v. Juniper - Discovery

Josh,  
Regarding third party confidentiality, we would like to discuss the scope of Juniper's requests so we can provide notice to third parties. This relates primarily to Juniper's RFP Nos. 71-85, which request a broad range of material that implicates third party confidential information.

We would also like to discuss third party requests to restrict "Designated House Counsel" from accessing certain licenses.

Sincerely,  
Kris

Kris Kastens  
Associate

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**From:** Glucoft, Josh [<mailto:JGlucoft@irell.com>]  
**Sent:** Friday, March 16, 2018 3:40 PM  
**To:** Kastens, Kris  
**Cc:** Andre, Paul; Kobialka, Lisa; Hannah, James; Kagan, Jonathan; Carson, Rebecca; Wang, Kevin; Holland, Eileen; Manes, Austin; Curran, Casey; Manes, Austin; Lee, Michael H.; #Juniper/Finjan [Int]  
**Subject:** [EXTERNAL] RE: Finjan v. Juniper - Discovery

Kris,

We are not sure what you mean by "indexed searching," but UltraEdit has substantial searching capabilities, including but not limited to: "Search huge log files, generate a list of all lines containing your search string, do pattern-based find and replace with regular expression support, search in columns and selected text." *See:*

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