

# EXHIBIT B

**Song, Sharon**

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**From:** Glucoft, Josh  
**Sent:** Thursday, March 15, 2018 7:31 PM  
**To:** ~Kastens, Kristopher  
**Cc:** ~Andre, Paul; ~Kobialka, Lisa; ~Hannah, James; Kagan, Jonathan; Carson, Rebecca; Wang, Kevin; Holland, Eileen; ~Manes, Austin; Curran, Casey; ~Manes, Austin; ~Lee, Michael  
**Subject:** RE: Finjan v. Juniper - Discovery  
**Attachments:** Juniper Revisions to ESI.DOCX; Finjan Edits to ESI Order 3-12-18 - Juniper Revisions to ESI.PDF; Juniper Revisions to PO.DOCX; Compare Finjan Revisions to PO 3-7-18 (clean) - Juniper Revisions to PO.PDF

Kris,

As I mentioned in my other email, Juniper is producing its source code on an highly expedited basis—just 11 days after service of infringement contentions instead of the 45 days contemplated by the Patent Local Rules. Juniper’s source code is the definitive documentation for how its products work and is also the most important documentation for Finjan’s case. We have requested expedited production by Finjan of documents that are essential to Juniper’s case, and Finjan must reciprocate with the same effort made by Juniper. Finjan must commit to produce the documents you list below by March 19, not on a “rolling” basis, given that these documents are essential to Juniper and readily available to Finjan. As for documents bearing confidential third party information, Finjan was required by the Interim Model Protective Order to provide prompt notice to any affected third parties after Finjan received our Requests For Production on March 6. Assuming Finjan complied with its notice obligations, the deadline for third parties to object or seek a protective order is March 20. Therefore, Finjan must provide a date certain by which it will produce the balance of the categories of documents listed in my earlier email, in no event later than March 23.

Juniper will continue to diligently work towards producing key documents in this case at or before the timeline set forth in the Federal Rules of Civil Procedure, the Local Rules, and any applicable agreement between the parties. As a show of good faith, Juniper provides the following information regarding the technical knowledge of certain individuals previously identified in Juniper’s initial disclosures:

- Volodymyr Kuznetsov and Yuly Tenorio: May have technical information regarding Sky ATP
- Bruce Kao: May have technical information regarding SRX
- Rakesh Manocha: May have technical information regarding Space Security Director

You will notice that these individuals are not listed as having information related to ATP Appliance or Spotlight Secure Threat Intelligence Platform. That is because, at the time the parties were required to serve initial disclosures, Juniper had no notice that those products might be part of the case since neither of those two products were referred to in any way in Finjan’s complaint. To Juniper’s surprise, these products appear in Finjan’s infringement contentions even though Finjan has not sought leave to amend its complaint. That is improper. *See Richtek Tech. Corp. v. uPi Semiconductor Corp.*, 2016 WL 1718135, at \*2 (N.D. Cal. Apr. 29, 2016) (Alsup, J.) (“[T]he filing of a complaint sets the cut-off date for the scope of a case, subject to the possibility of supplementation. Nevertheless, for some time, patent owners have made open-ended allegations in their complaint that do not specifically identify the accused products and used amendments to their infringement contentions to expand the scope of the case to encompass products...without the need to file a supplemental complaint—essentially sneaking new products into the case through the back door of infringement contentions.”). Finjan cannot “sneak” products into this case that are not identified in its complaint by name or at least specific technology. Finjan must amend its complaint if it wishes to seek discovery on these distinct products. Needless to say, the source code for these products will not be produced on March 19 because they are not part of the case and because Juniper cannot reasonably be expected to produce such large volumes of additional code on such short notice.

Lastly, attached are Juniper’s proposed revisions to the Protective Order and ESI order.

Thanks,  
Josh

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**From:** Kastens, Kris [mailto:KKastens@KRAMERLEVIN.com]  
**Sent:** Monday, March 12, 2018 3:42 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  
**Subject:** RE: Finjan v. Juniper - Discovery

Josh,

Thank you for confirming that the source code is available for inspection on March 19<sup>th</sup>. While this leaves little time for Finjan to review the code before claim selection, Finjan identifies Michael Lee and Kris Kastens as reviewing the code on March 19<sup>th</sup>-20<sup>th</sup>. Furthermore, we disagree that Juniper can make this production contingent on Finjan's production of certain unrelated material by March 19<sup>th</sup>. Finjan requested production of Juniper's source code, which is relevant, since the day after Judge Alsup ordered that the "shootout" procedure for this case. As such, Finjan will proceed with a review on March 19<sup>th</sup> as indicated.

In regards to the documents that Juniper is requesting, Finjan will serve its objections and responses to Juniper's Requests for Production in due course. However, as a showing of good faith, Finjan can agree to start producing the following on a rolling basis beginning on March 19<sup>th</sup>:

- Documents showing marking;
- Non-confidential invalidity contentions addressed to asserted patents;
- Non-confidential expert reports; and
- Deposition transcripts of Finjan employees that do not include third party confidential information.

We note that some of this was already produced, as some of it is part of the file history of the asserted patents. In regards to the other material requested, production by March 19<sup>th</sup> is impossible, as much the majority of these documents were marked confidential by a third party. Let us know when you are available to meet and confer on the scope of these requests.

To the extent that Juniper is alleging that Finjan's production has been deficient, Finjan has already produced tens of thousands of pages of its highly confidential documents (including documents showing marking with the patents), first with its initial disclosures and then more with its infringement contentions. Finjan has also already made its source code available for inspection under the interim protective order.

Sincerely,  
Kris

**Kris Kastens**  
Associate

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