

# EXHIBIT 1

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

BEFORE THE HONORABLE JUDGE WILLIAM ALSUP

FINJAN, INC., A DELAWARE )  
CORPORATION, )  
) )  
VS. ) NO. 17-5659 WHA  
) )  
THIS DOCUMENT RELATES TO ALL )  
ACTIONS. ) SAN FRANCISCO,  
) CALIFORNIA  
) TUESDAY  
) APRIL 17, 2018  
) 11:30 A.M.

**TRANSCRIPT OF PROCEEDINGS**

**APPEARANCES:**

**FOR PLAINTIFF:**

KRAMER LEVIN NAFTALIS & FRANKEL LLP

990 MARSH ROAD

MENLO PARK, CALIFORNIA 94025

BY: KRISTOPHER KASTENS, ESQUIRE

PHUONG (STEPHANIE) NGUYEN, ATTORNEY AT LAW

**FOR DEFENDANTS:**

IRELL & MANELLA LLP

1800 AVENUE OF THE STARS, SUITE 900

LOS ANGELES, CALIFORNIA 90067

BY: JOSHUA GLUCOFT, ESQUIRE

**REPORTED BY: KATHERINE WYATT, CSR 9866, RMR, RPR**

*PRO TEM REPORTER - US DISTRICT COURT*

*COMPUTERIZED TRANSCRIPTION BY ECLIPSE*

1 **APRIL 17, 2018**

11:30 O'CLOCK A.M.

2  
3 **P R O C E E D I N G S**

4 **THE CLERK:** WE ARE CALLING CIVIL ACTION 17-5659,  
5 FINJAN, INC. VERSUS JUNIPER NETWORKS, INC.

6 COUNSEL, PLEASE STATE YOUR APPEARANCES.

7 **MR. KASTENS:** KRISTOPHER KASTENS ON BEHALF OF FINJAN,  
8 INC. AND WITH ME IS PHUONG NGUYEN, WHO IS ALSO HERE ON BEHALF OF  
9 FINJAN. AND SHE'S ONE OF OUR JUNIOR ASSOCIATES WHO WILL ACTUALLY  
10 BE ARGUING THE MOTION.

11 **THE COURT:** OKAY. GREAT. LET HER COME FORWARD, THEN.

12 **MR. KASTENS:** YES, YOUR HONOR.

13 **THE COURT:** AND ADJUST THE MIC SO IT CATCHES YOUR  
14 VOICE. WHAT IS YOUR NAME AGAIN?

15 **MS. NGUYEN:** PHUONG NGUYEN, YOUR HONOR.

16 **THE COURT:** PHUONG?

17 **MS. NGUYEN:** NGUYEN.

18 **THE COURT:** NGUYEN. OKAY. GOOD.

19 AND YOUR NAME?

20 **MR. GLUCOFT:** JOSHUA GLUCOFT OF IRELL & MANELLA ON  
21 BEHALF OF DEFENDANT JUNIPER NETWORKS, INC.

22 **THE COURT:** GREAT.

23 SO LET'S HELP ME OUT HERE. WHAT ISSUE HAVE YOU SOLVED ON  
24 YOUR OWN?

25 **MS. NGUYEN:** SO WITH REGARD TO THE MOTION FOR

1 COMPELLING DISCOVERY, WE WERE ABLE TO RESOLVE THE FIRST ISSUE  
2 WITH REGARD TO SKY ATP AND PRODUCTION OF THOSE DOCUMENTS.  
3 HOWEVER --

4 **THE COURT:** SAY THAT AGAIN.

5 **MS. NGUYEN:** WE'VE RESOLVED THE FIRST ISSUE IN OUR  
6 MOTION TO COMPEL DISCOVERY WITH REGARD TO SKY ATP.

7 **THE COURT:** SKY ATP. ALL RIGHT. SO THAT'S GONE.

8 **MS. NGUYEN:** YES, YOUR HONOR.

9 **THE COURT:** RIGHT?

10 **MR. GLUCOFT:** YES, YOUR HONOR. THERE'S AN ADDITIONAL  
11 AGREEMENT, AS WELL.

12 **THE COURT:** PLEASE, GO AHEAD AND SAY IT, WHATEVER YOU  
13 WANT TO SAY SO WE GET IT ON THE RECORD. YOU DON'T HAVE TO PUT IT  
14 ON THE RECORD, BUT DO YOU WANT TO SAY MORE?

15 **MR. GLUCOFT:** THANK YOU, YOUR HONOR. MY UNDERSTANDING  
16 IS THAT FINJAN HAS AGREED TO WITHDRAW THEIR OPPOSITION TO OUR  
17 MOTION TO DEFER CLAIM CONSTRUCTION. AND IN EXCHANGE WE HAVE  
18 AGREED TO NOT MARK TECHNICAL SPECIFICATION DOCUMENTS AS SOURCE  
19 CODE UNDER THE PROTECTIVE ORDER, ESSENTIALLY ADOPTING THEIR  
20 PROPOSAL AS TO THE DEFINITION OF A HIGHLY CONFIDENTIAL SOURCE  
21 CODE IN THE PROTECTIVE ORDER.

22 AND ALSO THAT THE PARTIES WOULD BE EXCHANGING THE TERMS THAT  
23 THEY INTEND TO PROPOSE CONSTRUCTIONS FOR IN THE EARLY SUMMARY  
24 JUDGMENT BRIEFING AS CURRENTLY SCHEDULED.

25 **THE COURT:** WELL, I THOUGHT THAT'S A DIFFERENT PROBLEM.

1 I AM -- I HAVE A PRETTY STRONG VIEW THAT YOU SHOULD CONTINUE AS  
2 TO EVERYTHING YOU'VE ALLEGED IN THE COMPLAINT, THAT YOU SHOULD  
3 CONTINUE TO DO YOUR CLAIM CONSTRUCTIONS, EVEN THOUGH THEY ARE NOT  
4 THE ONES THAT WE WILL REVIEW IN THE SHOWDOWN, BECAUSE SOMEDAY  
5 WE'RE GOING TO HAVE TO GET TO THOSE. AND IT WILL JUST KICK THE  
6 CAN DOWN THE ROAD IF WE LET YOU POSTPONE THAT.

7 SO I THINK THAT IT'S FOR THE BETTER -- FOR THE BEST IF YOU  
8 CONTINUE TO FOLLOW THE RULE, MY LOCAL RULE, ON EXCHANGING YOUR  
9 TERMS AND PROPOSED -- PROPOSED CONSTRUCTIONS.

10 **MR. GLUCOFT:** YOUR HONOR, MAY I BE HEARD BRIEFLY ON  
11 THIS ISSUE?

12 **THE COURT:** SURE. YES.

13 **MR. GLUCOFT:** WE FULLY APPRECIATE YOUR HONOR'S  
14 PREFERENCE, AND WE ARE TRYING TO REACH SOME AGREEMENT. I THINK  
15 OUR CONFUSION WAS PRIMARILY SPECIFICALLY IN LIGHT OF THE EARLY  
16 SUMMARY JUDGMENT. IT'S UNCLEAR TO US WHETHER WE WOULD EVEN HAVE  
17 TO BRIEF CONSTRUCTION FOR TERMS THAT WAS ALREADY FULLY BRIEFED IN  
18 EARLY SUMMARY JUDGMENT. SO IF WE COULD AT LEAST CARVE OUT --

19 **THE COURT:** OH, FOR THOSE I WOULD CARVE. THE ONES IN  
20 THE EARLY SUMMARY JUDGMENT MOTIONS THAT I TOLD YOU TO BRING ON  
21 WHAT I CALL THE "SHOWDOWN" --

22 **MR. GLUCOFT:** RIGHT.

23 **THE COURT:** -- YES. SO THOSE DON'T HAVE TO BE IN THE  
24 CLAIM CONSTRUCTION DISCLOSURES UNDER OUR LOCAL RULE, BECAUSE YOU  
25 ARE GOING TO DISCLOSE THAT IN YOUR SUMMARY JUDGMENT MOTIONS.

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