

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
TEXARKANA DIVISION

JOHN WARD, JR.

§

§

§

v.

§

C. A. NO. 08-4022

CISCO SYSTEMS, INC. AND

§

JURY TRIAL DEMANDED

RICK FRENKEL

§

§

**RICK FRENKEL'S MOTION TO DISMISS OR TRANSFER
FOR LACK OF PERSONAL JURISDICTION**

TO THE HONORABLE COURT:

Defendant Rick Frenkel ("Frenkel") files this motion to dismiss pursuant to Rule 12(b)(2) of the Federal Rules of Civil Procedure or transfer pursuant to 28 U.S.C. § 1631 for lack of personal jurisdiction and shows the Court the following:


This Court does not have personal jurisdiction over Frenkel because he does not have sufficient minimum contacts with Arkansas and because asserting jurisdiction over Frenkel would offend traditional notions of fair play and substantial justice. Accordingly, Frenkel seeks dismissal of this action or transfer of this action to United States District Court for the Eastern District of Texas, Tyler Division, so that this case may be consolidated with an almost identical lawsuit pending there.

In support of this motion, Frenkel attaches the following:

- Declaration of Richard Frenkel, a true and correct copy of which is attached as Exhibit A.
- Original Petition in *Eric Albritton v. Cisco Systems, Inc. and Richard Frenkel*, Civil Action Number 6:08-cv-89, in the United States District Court for the Eastern District of Texas, Tyler Division, a true and correct copy of which is attached as Exhibit B.
- Plaintiff's First Amended Petition in *John Ward, Jr. v. Cisco Systems, Inc. and Richard Frenkel*, Civil Action No. 2007-2502-A, in the District Court for the 188th Judicial District of Gregg County, Texas, a true and correct copy of which is attached as Exhibit C.
- Cisco Systems, Inc.'s Original Answer in *Eric Albritton v. Cisco Systems, Inc. and Richard Frenkel*, Civil Action Number 6:08-cv-89, in the United States District Court for the Eastern District of Texas, Tyler Division, a true and correct copy of which is attached as Exhibit D.

WHEREFORE, PREMISES CONSIDERED, Frenkel respectfully requests that its Motion to Dismiss or Motion to Transfer for Lack of Personal Jurisdiction be in all things granted; that this cause of action be dismissed for lack of subject matter jurisdiction or transferred to the Tyler Division of the Eastern District of Texas; and that Frenkel be granted such other relief, both at law and in equity, as the Court deems just and proper.

Respectfully submitted,

By: 

Michael D. Barnes
Arkansas Bar No.: 88071
Wright, Lindsey & Jennings LLP
200 West Capitol Avenue, Suite 2300
Little Rock, Arkansas 772201-3699
(501) 212-1228
(501) 376-9442—Fax
Email: mbarnes@wlj.com

and

George L. McWilliams
Arkansas Bar No: 68078
GEORGE L. MCWILLIAMS, P.C.
406 Walnut
P.O. Box 58
Texarkana, Texas 75504-0058
(903) 277-0098
(870) 773-2967—Fax
Email: glmlawoffice@gmail.com

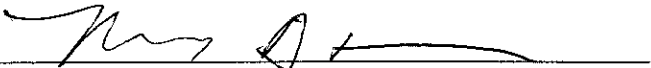
ATTORNEYS FOR DEFENDANT
RICK FRENKEL

CERTIFICATE OF SERVICE

This is to certify that on this 24 day of April, 2008, a true and correct copy of the foregoing was served electronically, upon:

Nicholas H. Patton
Patton, Tidwell & Schroeder, LLP
4605 Texas Boulevard
Texarkana, Texas 75503

Richard E. Griffin
Charles L. Babcock
Jackson Walker L.L.P.
1404 McKinney, Suite 1900
Houston, Texas 77010



Michael D. Barnes