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IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TYLER DIVISION

ERIC M. ALBRITTON,

Plaintiff,

vs.

No. 6:08-CV-00089

(1) CISCO SYSTEMS, INC.,
(2) RICHARD FRENKEL, (3) MALLUN
YEN and (4) JOHN NOH,

Defendants.

CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

DEPOSITION OF RICHARD G. FRENKEL

Tuesday, November 18, 2008

SHEILA CHASE & ASSOCIATES
REPORTING FOR:
West Court Reporting Services
221 Main Street, Suite 1250
San Francisco, California 94105
Phone: (415) 321-2300
Fax: (415) 618-0743

Reported by:
JANIS JENNINGS, CSR, CRP, CLR
CRS-100282-023

1 correct?

2 A. Not necessarily.

3 Q. Some venue changes?

4 A. I was analyzing some of the proposals that
5 people were making regarding venue laws that could
6 have affected venue after -- if those laws were
7 passed.

8 Q. What about your employer, Cisco? Did they
9 want some venue reform?

10 A. I don't know if I can speak for what Cisco
11 wanted.

12 Q. Well, you ought to have some personal
13 knowledge of what went on out there, shouldn't you?

14 A. Yes.

15 Q. Okay. Well, that's what I'm asking you.
16 Did the hierarchy in Cisco want some venue reform?

17 MR. McWILLIAMS: Objection. Form.

18 MR. BABCOCK: Same objection.

19 THE WITNESS: I don't know for sure what
20 Cisco wanted in terms of venue reform. It was my
21 belief at the time that they did.

22 BY MR. PATTON:

23 Q. What's a Banana Republic?

24 A. I don't know.

25 Q. I gather, then, that you felt free to post

1 something you don't even know what the implication
2 or the meaning of it was?

3 MR. McWILLIAMS: Objection. Form.

4 MR. BABCOCK: Same objection.

5 THE WITNESS: I don't remember why I chose
6 that phrase, Mr. Patton.

7 BY MR. PATTON:

8 Q. It wasn't a compliment, was it?

9 A. No. And I'm sorry for that.

10 Q. You're apologizing for calling the Eastern
11 District of Texas a Banana Republic?

12 A. Yes.

13 Q. Okay. And when did you become sorry about
14 that?

15 A. As soon as I was informed from the
16 complaint that I had actually done it because I
17 hadn't remembered doing it.

18 Q. You didn't remember using that phrase in
19 your blog?

20 A. No, I did not.

21 Q. What, did you just write it in a hurry or
22 something? You weren't thinking? What?

23 A. I don't know.

24 Q. The other uncomplimentary remarks you made
25 about the Eastern District of Texas, do you remember

1 Q. The 17th and 18th; right?

2 A. Yes.

3 Q. All right. Between that time period and
4 when this lawsuit was filed in early March of 2008,
5 did those -- either of those two articles generate
6 any publicity?

7 A. No.

8 Q. Okay. Now, the lawsuits that were filed
9 by Messrs. Albritton and Mr. Ward, did they attach
10 the Patent Troll Tracker of October 17th and
11 October 18th to the lawsuits that the plaintiffs
12 filed?

13 A. Yes.

14 Q. All right. And following that, was there
15 publicity in the public media about the Patent Troll
16 Tracker and about their allegations?

17 A. Yes. There was a tremendous amount of
18 publicity after they filed their lawsuit.

19 Q. All right. And did you see Mr. Patton
20 himself quoted in some of these articles?

21 A. Oh, yes.

22 Q. All right. The matter that you were
23 writing about in the October 17th and the
24 October 18th Patent Troll Trackers, did you consider
25 those subjects to be matters of public concern?