

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

JOHN WARD, JR.

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v.

C.A. NO. 08-4022
JURY TRIAL DEMANDED

CISCO SYSTEMS, INC AND
RICK FRENKEL

**CISCO SYSTEMS, INC.’S RESPONSE TO JOHN WARD, JR.’S MOTION
FOR LEAVE TO SUPPLEMENT THE RECORD REGARDING CISCO
SYSTEM’S PENDING MOTION TO DISMISS FOR IMPROPER VENUE,
OR IN THE ALTERNATIVE, MOTION TO TRANSFER VENUE**

TO THE HONORABLE COURT:

Cisco Systems, Inc. (“Cisco”) hereby files its response to Plaintiff John Ward, Jr.’s Motion for Leave to Supplement the Record Regarding Cisco System’s Pending Motion to Dismiss for Improper Venue, or in the Alternative, Motion to Transfer Venue (the “Motion”).

Cisco has no objection to Ward’s Motion to supplement the record concerning the recusal of Judges Michael H. Schneider and Leonard Davis. However, Judge Richard A. Schell has indicated that he will not recuse. He has ordered the parties to mediation and set a final pretrial conference in the case. (Order, Exhibit A.) Therefore, there is no reason or indication that this case could not be tried in the Eastern District of Texas alongside the almost identical lawsuit pending there for the reasons stated in Cisco’s Motion to Dismiss for Improper Venue, or in the Alternative, Motion to Transfer Venue (the “Motion to Dismiss”).

Cisco now seeks only to clarify that at the time of its Motion to Dismiss, it had every indication that Judge Schneider would proceed with the case and would not recuse. At the scheduling conference in the related case in the Eastern District of Texas on June 5, 2008, Judge Schneider stated that recusal was not necessary and proceeded to order the parties to mediation.

(Transcript of Hearing at 13:13:1-9; 33:8-9). Later in the hearing, Judge Schneider stated that “it’s too late for me to recuse.” (Transcript of Hearing at 25:5-6). In addition, counsel for both parties stated in the status conference that there was no thought of recusal. (Transcript at 12:16-25).

Respectfully submitted,

JACKSON WALKER L.L.P.

By: /s/ Charles L. Babcock

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ATTORNEYS FOR DEFENDANT
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CERTIFICATE OF SERVICE

This is to certify that on this 28th day of July, 2008, a true and correct copy of the foregoing Cisco Systems, Inc.'s Response to John Ward Jr.'s Motion for Leave to Supplement the Record Regarding Cisco' System's Pending Motion to Dismiss for Improper Venue, or in the Alternative, Motion to Transfer Venue was served electronically, upon:

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