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

JOHN WARD, JR.	§	
	§	
v.	§	
	§	C.A. NO. 08-4022
CISCO SYSTEMS, INC.	§	JURY TRIAL DEMANDED
	§	

DEFENDANT'S AMENDED ANSWERS
TO PLAINTIFF'S INTERROGATORIES

TO: Plaintiff John Ward, Jr., by and through his attorney of record, Nicholas H. Patton, Patton, Tidwell & Schroeder, LLP, 4605 Texas Boulevard, P.O. Box 5398, Texarkana, Texas 75505-5398.

Defendant Cisco Systems, Inc. ("Defendant" or "Cisco") hereby serves its Amended Answers to Plaintiff's First Set of Interrogatories in compliance with the order of the court dated March 30, 2009. These answers supersede the answers previously provided. The objections previously made in response to the interrogatories are reasserted as if repeated verbatim. To the extent these objections have been overruled by the court, they are reasserted here for appellate purposes only.

Purpose of Communication:	IP Legal Team members also had privileged communications among themselves and with Baker Botts regarding the filing of the ESN complaint on October 15-18, 2007. The Cisco legal team does not remember the exact dates and times of oral communications or the exact substance of those privileged communications.
Description of Communication	Phone conversations.
Documents Concerning Communication:	See Cisco's privilege log regarding attorney client and work product privileged document identified as CISCO PRIVILEGED.000004, 5, 6, 19-26, 27, 44-48, 111, 114-15, 118, 125, 144, 148-149, 169, 261, and 276-277. All of these documents were produced in the Albritton case pursuant to agreements designed to protect the attorney client and attorney work product privileges in light of the ongoing ESN v. Cisco litigation. Also, see Cisco's privilege log regarding attorney client and work product privileged document identified as CISCO PRIVILEGED.000229.

4. IDENTIFY ALL COMMUNICATIONS between CISCO and any PERSON and/or COMPANY CONCERNING whether the allegations made in the October 17, 2007 Post, the October 18, 2007 Post, and/or the revised October 18, 2007 were accusations of criminal, unethical or improper conduct, and separately and for each COMMUNICATION IDENTIFY the DATE, TIME, PERSONS involved, DESCRIBE the purpose of the COMMUNICATION, DESCRIBE the COMMUNICATION, and IDENTIFY ANY DOCUMENTS CONCERNING that COMMUNICATION.

RESPONSE:

After a reasonable search, Cisco has located no responsive communications (oral or written) other than a deposition question in the *Albritton v. Cisco* litigation at follows: Mallun Yen depositions at p. 88 where Plaintiff's counsel (Nick Patton) asked Ms. Yen this question.

5. IDENTIFY ALL information relied upon by Richard Frenkel in making the statements contained in the Troll Tracker October 17, 2007, October 18, 2007 and revised October 18, 2007 posts, and separately and for each piece of information IDENTIFY the DATE and TIME the information was received by Frenkel, IDENTIFY all DOCUMENTS CONCERNING the information received, IDENTIFY ALL PERSONS involved in the

information received, IDENTIFY the nature of any COMMUNICATION involved INCLUDING the DATE, TIME, and ALL PERSONS involved in the COMMUNICATION, and IDENTIFY all DOCUMENTS CONCERNING that COMMUNICATION.

RESPONSE:

As to the October 17 Article, Rick relied on the following:

1. Electronic Docket Sheet for *ESN v. Cisco*, 5:07-CV-00156-DF-CMC in the United States District Court for the Eastern District of Texas—Texarkana Division
   Date and time received by Frenkel: Reviewed online on October 15, 2007 approximately 3:00 PM Pacific Time
   Documents Concerning the Information Received: N/A
   Persons Involved in the Information Received: Rick Frenkel
   Nature of Any Communication Involved: None
   Date: N/A
   Time: N/A
   All Persons Involved in the Communication: N/A
   Documents Concerning That Communication: N/A

2. United States Patent and Trade Office website entry for patent 7,283,519
   Date and time received by Frenkel: Reviewed online on October 15, 2007 approximately 3:00 PM Pacific Time
   Document concerning information received: None
   Persons Involved in the Information Received: Rick Frenkel
   Nature of Any Communication Involved: None
   Date: N/A
   Time: N/A
   All Persons Involved in the Communication: N/A
   Documents Concerning That Communication: N/A

3. Patently O Article attaching file-stamped (10/15/07) complaint (ARK4-87)
   Date and time received by Frenkel: Reviewed online on October 16, 2007, time unknown
   Document concerning information received: ARK.000004-87
   Persons Involved in the Information Received: Rick Frenkel, Dennis Crouch
   Nature of Any Communication Involved: None
   Date: N/A
   Time: N/A
   All Persons Involved in the Communication: N/A
   Documents Concerning That Communication: N/A

4. Law360 Article regarding ESN v. Cisco lawsuit
   Date and time received by Frenkel: Reviewed online on October 16, 2007, time unknown
   Document concerning information received: ARK.001932-34

Persons Involved in the Information Received: Rick Frenkel, Amanda Ernst (author of article)
Nature of Any Communication Involved: None
Date: N/A
Time: N/A
All Persons Involved in the Communication: N/A
Documents Concerning That Communication: N/A

5. Anonymous email to PTT at 6:37 a.m. on 10/17
Date and time received by Frenkel: October 17, 2007 at 6:37 a.m.
Document concerning information received: ARK.0001420
Persons Involved in the Information Received: Rick Frenkel, Amanda Ernst (author of article)
Nature of Any Communication Involved: None
Date: N/A
Time: N/A
All Persons Involved in the Communication: N/A
Documents Concerning That Communication: N/A

6. Original Complaint in *ESN v. Cisco Systems, Inc. et al*, 5:08-CV-0020-DF in the United States District Court for the Eastern District of Texas—Texarkana Division
Date and time received by Frenkel: 10/15/07 at approximately 11:34 PM
Document concerning information received: ARK.00093-000166
Persons Involved in the Information Received: Rick Frenkel
Nature of Any Communication Involved: None
Date: N/A
Time: N/A
All Persons Involved in the Communication: N/A
Documents Concerning That Communication: N/A

7. Civil Cover Sheet in *ESN v. Cisco Systems, Inc. et al*, 5:08-CV-0020-DF in the United States District Court for the Eastern District of Texas—Texarkana Division
Date and time received by Frenkel: 10/15/07 at approximately 11:34 PM
Document concerning information received: ARK.00089
Persons Involved in the Information Received: Rick Frenkel
Nature of Any Communication Involved: None
Date: N/A
Time: N/A
All Persons Involved in the Communication: N/A
Documents Concerning That Communication: N/A

8. Docket for *ESN v. Cisco Systems, Inc. et al*, 5:08-CV-0020-DF in the United States District Court for the Eastern District of Texas—Texarkana Division showing filed on 10/15
Date and time received by Frenkel: Reviewed online on October 17, time unknown
Documents Concerning the Information Received: ARK.0000242-243
Persons Involved in the Information Received: Rick Frenkel

Nature of Any Communication Involved: None
Date: N/A
Time: N/A
All Persons Involved in the Communication: N/A
Documents Concerning That Communication: N/A

9. Opinion in *GAF Building Materials Corp. v. Elk Corp. of Texas*, 90 F.3d 479, 483 (Fed. Cir. 1996) (quoted in article)
Date and time received by Frenkel: Reviewed online on October 17, time unknown
Documents Concerning the Information Received: N/A
Persons Involved in the Information Received: Rick Frenkel
Nature of Any Communication Involved: None
Date: N/A
Time: N/A
All Persons Involved in the Communication: N/A
Documents Concerning That Communication: N/A

10. Complaint for Declaratory Judgment in *Cisco Systems, Inc. et al v. ESN, LLC*, Cause No. 307-CV-01528 in the United States District Court for the District of Connecticut
Date and time received by Frenkel: October 17 at unknown time
Documents Concerning the Information Received: ARK0000291-95
Persons Involved in the Information Received: Rick Frenkel
Nature of Any Communication Involved: None
Date: N/A
Time: N/A
All Persons Involved in the Communication: N/A
Documents Concerning That Communication: N/A

11. Information concerning ESN and its manager.
Date and time received by Frenkel. The information was reviewed online by Frenkel between October 15 and 17, 2007. Some of it came from Zoom.com
Documents Concerning the Information Received. N/A
Persons Involved in the Information Received: Rick Frenkel
Nature of Any Communication Involved: None
Date: N/A
Time: N/A
All Persons Involved in the Communication: N/A
Documents Concerning That Communication: N/A

October 18 Article

1. First Amended Complaint for Patent infringement in ESN v Cisco, 5:07-CV-00156-DF-CMC in the United States District Court for the Eastern District of Texas—Texarkana Division
Date and time received by Frenkel: October 17 at approximately 1:47 p.m.

Documents Concerning the Information Received: ARK0000246-252
Persons Involved in the Information Received: Rick Frenkel
Nature of Any Communication Involved:
Date: October 17, 2007
Time: 1:47 p.m.
All Persons Involved in the Communication: Rick Frenkel

2. Anonymous email to Patent Troll Tracker
Date and time received by Frenkel: October 18 at 5:30 a.m.
Documents Concerning the Information Received: ARK0001421
Persons Involved in the Information Received: Rick Frenkel, Anonymous author
Nature of Any Communication Involved: N/A
Date: N/A
Time: N/A
All Persons Involved in the Communication: N/A
Documents Concerning That Communication: N/A

3. Anonymous email to Patent Troll Tracker
Date and time received by Frenkel: October 17, 2007 at 6:37 AM
Document Concerning the Information Received: ARK.001420
Persons Involved in the Information Received: Rick Frenkel
Nature of Any Communication Involved: N/A

4. Conversation with either Mallan Yen or Marta Beckwith
Date and time received by Frenkel: October 18 in the morning.
Documents Concerning the Information Received: None
Persons Involved in the Information Received: Rick Frenkel and Mallun Yen or Marta Beckwith
Nature of Any Communication Involved: Oral communication regarding change of docket in ESN case.
Date: October 18
Time: AM
All Persons Involved in the Communication: Rick Frenkel and Mallun Yen or Marta Beckwith

5. Original Complaint ESN v Cisco, 5:07-CV-00156-DF-CMC in the United States District Court for the Eastern District of Texas—Texarkana Division stamped 10/16
Date and time received by Frenkel: October 18 at unknown time
Documents Concerning the Information Received: ARK.0000167-241
Persons Involved in the Information Received: Rick Frenkel
Nature of Any Communication Involved: None
Date: N/A
Time: N/A

6. Docket in ESN v Cisco, 5:07-CV-00156-DF-CMC in the United States District Court for the Eastern District of Texas—Texarkana Division showing complaint filed on 10/16

Date and time received by Frenkel: October 18 at unknown time
Documents Concerning the Information Received: ARK0000244-45
Persons Involved in the Information Received: Rick Frenkel
Nature of Any Communication Involved: N/A
Date: N/A
Time: N/A
All Persons Involved in the Communication: N/A
Documents Concerning That Communication: N/A

7. Local rules of the Eastern District of Texas
Date and time received by Frenkel: Unknown
Documents Concerning the Information Received: Deposition of Rick Frenkel in *Albritton v. Cisco* at pp.120, 130-31
Persons Involved in the Information Received: Rick Frenkel
Nature of Any Communication Involved: N/A
Date: N/A
Time: N/A
All Persons Involved in the Communication: N/A
Documents Concerning That Communication: N/A

8. Original Complaint in ESN v. Cisco Systems, Inc. et al, 5:08-CV-0020-DF in the United States District Court for the Eastern District of Texas—Texarkana Division
Date and time received by Frenkel: 10/15/07 at approximately 11:34 PM
Document concerning information received: ARK.00093-000166
Persons Involved in the Information Received: Rick Frenkel
Nature of Any Communication Involved: None
Date: N/A
Time: N/A
All Persons Involved in the Communication: Richard Frenkel
Documents Concerning That Communication: ARK.00093-000166

9. Civil Cover Sheet in ESN v. Cisco Systems, Inc. et al, 5:08-CV-0020-DF in the United States District Court for the Eastern District of Texas—Texarkana Division
Date and time received by Frenkel: 10/15/07 at approximately 11:34 PM
Document concerning information received: ARK.000089
Persons Involved in the Information Received: Rick Frenkel
Nature of Any Communication Involved: None
Date: N/A
Time: N/A
All Persons Involved in the Communication: Richard Frenkel
Documents Concerning That Communication: ARK.00089

10. Electronic Docket Sheet for ESN v. Cisco, 5:07-CV-00156-DF-CMC in the United States District Court for the Eastern District of Texas—Texarkana Division
Date and time received by Frenkel: Reviewed online on October 15, 2007 approximately 3:00 PM Pacific Time

Documents Concerning the Information Received: ARK.000242
Persons Involved in the Information Received: Rick Frenkel
Nature of Any Communication Involved: None
Date: N/A
Time: N/A
All Persons Involved in the Communication: N/A
Documents Concerning That Communication: N/A

October 19 Article (the "Revised October 18 Article")
Same as the October 18, 2007 article.

6. IDENTIFY the DATE and TIME that CISCO first became aware that ESN claimed that the filing date of the complaint as listed on the court's docket was an error and DESCRIBE the circumstances under which CISCO obtained that knowledge INCLUDING ALL PERSONS involved, all COMMUNICATIONS involved and separately and for each COMMUNICATION the DATE, TIME, ALL PERSONS involved, the content of the COMMUNICATION, what prompted the COMMUNICATION, the form of the COMMUNICATION, and IDENTIFY ALL DOCUMENTS CONCERNING CISCO's knowledge.

RESPONSE:

Cisco first became aware that ESN was claiming that the filing date of the complaint as listed on the Court's docket was an error was when it was served with ESN's Motion to Enjoin filed on October 18, 2007. Cisco does not recall when it was served with that pleading. Also on October 18, 2007, at an unknown time, Cisco's counsel, Baker Botts, most probably through Jillian Powell, learned from a court clerk that Eric Albritton was claiming the filing date was in error.

Circumstances Under Which Cisco Obtained That Knowledge: ESN filed a Motion to Enjoin Defendant Cisco and Linksys From Prosecuting Later Filed Parallel Litigation In Connecticut. ESN claimed, in that document, that the October 15, 2007 date on the docket was in error. Cisco does not know what person at the company first saw that document.

Persons Involved: Unknown

Communications Involved: ESN's Motion to Enjoin.