

KURT PANKRATZ, NOVEMBER 24, 2008

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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	*	
NOE,	*	
	*	
Defendants.	*	

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ORAL AND VIDEOTAPED DEPOSITION OF

KURT PANKRATZ

NOVEMBER 24, 2008

VOLUME 1

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ORAL AND VIDEOTAPED DEPOSITION OF KURT PANKRATZ,
produced as a witness at the instance of the Plaintiff, and
duly sworn, was taken in the above-styled and numbered cause on
the 24th of November, 2008, from 8:51 a.m. to 9:36 a.m., before
Rachel J. Payne, CSR in and for the State of Texas, reported by
machine shorthand, at the offices of Baker Botts, 2001 Ross
Avenue, Dallas, Texas, pursuant to the Texas Rules of Civil
Procedure and the provisions stated on the record or attached
hereto.

Esquire Deposition Services, LLC
(800) 866-5560

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EXAMINATION

BY MR. PATTON:

Q. State your name, please.

A. Kurt Pankratz.

Q. Where do you live -- you say it's Pankratz?

A. Long A, it's Pankratz.

Q. Pankratz.

A. Although Pankratz works just fine; I've heard that a lot.

Q. I bet you have. You're employed at Baker Botts?

A. I am.

Q. In the Dallas office?

A. That's right.

Q. And how long have you been here?

A. Since graduating law school back in '99.

Q. Okay. Are you a partner now?

A. Yes, I am.

Q. Okay. And when did you become a partner?

A. This year is my first year as a partner.

Q. Okay. Do you recall the activities that were going on from about the 16th or 17th of October 2007 through maybe the 22nd involving the issue of the ESN filing of a case in Marshall, Texas?

A. I do recall some of the activities regarding the ESN matter, yes.

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1 Q. Could you tell me how Baker Botts first became
2 involved?

3 A. I don't know that I know the exact answer to that
4 myself personally.

5 Q. Would you tell me what you have heard or what you
6 understand?

7 MR. CHEAVENS: I'll instruct the witness not to
8 answer as to communications with Cisco or communications with
9 in Baker Botts in connection with our representation of Cisco.

10 MR. PATTON: I don't believe, Joe, it's
11 privileged the fact that you were doing some work for Cisco.
12 In fact, we have documents that have been furnished to us.

13 MR. CHEAVENS: And those documents speak for
14 themselves.

15 MR. PATTON: Okay. Do I understand that he will
16 not be allowed to testify about anything that went on during
17 that 4- or 5- or 6-day period?

18 MR. CHEAVENS: Not unless Cisco waives the
19 privilege.

20 MR. PATTON: Well, we have --

21 MR. CHEAVENS: Because what he did is either
22 attorney/client privilege or work product privilege or both.

23 MR. PATTON: Or perhaps neither.

24 MR. CHEAVENS: I think everything we do for
25 clients is privileged until it becomes public information such

1 as if we file a motion, a pleading, et cetera.

2 Q. (BY MR. PATTON) Do you know whether or not Baker
3 Botts received either a phone call or an e-mail requesting
4 Baker Botts to help and advise in the ESN filing issue?

5 MR. CHEAVENS: Whether or not, he can answer
6 that yes or no, if you'll agree that by answering it yes or no
7 it does not constitute a general subject matter waiver of what
8 was said and what actions were taken or not taken in response
9 to the communication.

10 MR. PATTON: That's fine.

11 A. I'm assuming there was some contact.
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