

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

ERIC M. ALBRITTON,

Plaintiff

v.

**CISCO SYSTEMS, INC. RICHARD
FRENKEL, MAULLUN YEN and
JOHN NOH,**

Defendant

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**No. 6:08cv00089
JURY**

CISCO’S MOTION FOR ENTRY OF NON-WAIVER ORDER

TO THE HONORABLE DISTRICT JUDGE:

Defendant Cisco Systems, Inc. (“Cisco”) hereby moves for entry of a non-waiver order pursuant to Rule 502 of the Federal Rules of Evidence.

The parties to this litigation have agreed that the production of any documents protected by the attorney-client privilege and work product doctrines under the protective order in this case does not waive the privilege with respect to that or any other documents. (See Exhibit A). A Protective Order has already been entered in this case to deal with privileged and work-product materials.

Cisco seeks an order from the Court that use of privileged and work-product documents in this case does not waive the privilege with respect to any non-parties. The parties to this litigation have already agreed that the production of documents does not waive privilege. (Exhibit A). Therefore, this Order would make that agreement binding on non-parties pursuant to Rule 502 of the Federal Rules of Civil Procedure.

Pursuant to Rule 502, a Federal court may order that privilege or work-product protection is not waived by disclosure in connection with the litigation before the court and that the disclosure is not a waiver in any other Federal or State proceeding. Accordingly, Cisco seeks an order that the use of its privileged and work-product material in this case is not a waiver in this or any other Federal or State proceeding.

Respectfully submitted,

JACKSON WALKER L.L.P.

By: /s/ Charles L. Babcock

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CERTIFICATE OF CONFERENCE

Defendants attempted to reach an agreement regarding this Motion by discussion of the Motion in a telephone conference and a follow-up email on February 26, 2009, but have been advised by counsel for the Plaintiff that the Motion is opposed.

/s/ Charles L. Babcock

Charles L. Babcock

CERTIFICATE OF SERVICE

This is to certify that on this 26th day of February, 2009, a true and correct copy of the foregoing was served via electronic mail upon:

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/s/ Charles L. Babcock

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