

Patricia L. Peden

From: Patricia L. Peden [ppeden@pedenlawfirm.com]
Sent: Friday, June 19, 2009 2:15 PM
To: 'Parker, Crystal'
Cc: 'Babcock, Chip'; 'nickpatton@texarkanalaw.com'; 'Marcie Long'; 'Geoff Culbertson'
Subject: RE: Ward v. Cisco submission log

Importance: High

Crystal:

The Court did not limit his *in camera* review to the documents produced in the Albritton case. That would make no sense in light of the arguments made in the parties briefing, the scope of waiver the Court ordered, and our explanation that the Albritton Agreement was flawed in that it let Cisco pick and choose which documents it wanted to produce. The Court is not going to want to conduct an *in camera* review twice, which is exactly what will happen if the Court affirms the March 30 Order and Cisco continues to withhold documents on its privilege log.

Moreover, the Court ordered us to agree on the scope of the admission. Cisco's position that it is going to submit only the Albritton documents, whether we agree or not, is unacceptable. We asked for a updated privilege log from Cisco so that we could make a reasonable selection from the documents that Cisco is withholding. Since you will not provide it to us, we request that all documents on Cisco's privilege log be submitted to Judge Hendren. In addition, any documents in Cisco's possession received from Baker Botts should be included. Finally, we would like the email referenced in Frenkel's October 18, 2007 Post, wherein he says he received an email stating that ESN called the court clerk provided to the Court for *in camera* review. I don't believe that document has been produced in this case. If it has, please give me the production number so we can verify that we have it. If Cisco doesn't have it, please list it on the log anyway and tell the Court that it is unavailable. Since the submission must be a joint submission, we will not sign off on Cisco's submission until these items are included.

Marcie is reviewing Cisco's proposed submission log to ensure that all of the documents produced in the Albritton case have been listed. We should be able to get back to you about the completeness of the log in this respect by Tuesday of next week. Hopefully, Judge Hendren is available for clarification of this issue on Monday so that we will have time to get the other documents identified on the log before Friday's submission.

Thanks,
Patty

From: Parker, Crystal [mailto:cparker@jw.com]
Sent: Friday, June 19, 2009 1:13 PM
To: Patricia L. Peden; nickpatton@texarkanalaw.com
Cc: Babcock, Chip; Flynn-DuPart, Mary Lou; Adair, Kathy; Marcie Long
Subject: RE: Ward v. Cisco submission log

Patty,