

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

**ERIC M. ALBRITTON,** §  
§  
**Plaintiff,** §  
§  
v. §  
§  
(1) **CISCO SYSTEMS, INC.,** §  
(2) **RICHARD FRENKEL, a/k/a** §  
**“TROLL TRACKER,”** §  
(3) **JOHN NOH and** §  
(4) **MALLUN YEN,** §  
§  
**Defendants.** §

**NO. 6:08-CV-00089**

**DECLARATION OF PATRICIA L. PEDEN**

I, Patricia L. Peden, declare and testify as follows:

1. I make this declaration in support of Plaintiff’s Opposition to Cisco’s Amended Motion to Compel. I have personal knowledge of the facts set forth in this declaration and, if called to testify as a witness, I could and would competently testify to them under oath.

2. On Wednesday November 26, 2007 at around 4:30 p.m. Central Time, I received a call from Cisco’s counsel, Ms. Parker, who informed me that Cisco intended to file an Amended Motion to Compel Albritton’s interrogatory responses asking for relief different than that sought in its motion to compel. See Exh. 1. According to Ms. Parker. Cisco would be asking the Court to limit the statements that Albritton claims are defamatory to those contained in his complaint. I told her that I didn’t think I could respond to her request because I doubted that I could reach my client or co-counsel as most of their offices had already closed for Thanksgiving Weekend. Ms. Parker stated that because fact discovery had closed Cisco felt entitled to the relief it was now seeking, and that she was only calling to see if Albritton opposed the motion. See Exh. 1. She stated that she would file whether or not she heard back from me,

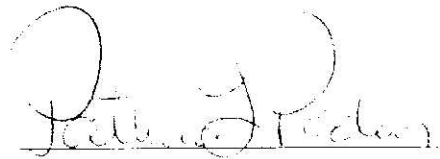
or irrespective of whether we had engaged in substantive discussions about the new relief that Cisco sought.

3. Five minutes after receiving Ms. Parker's call, unable to reach my client, I sent her and Mr. Babcock an email telling them that they had failed to meet and confer as required by the rules. I also told Ms. Parker and Mr. Babcock that Albritton would provide amended responses. *See* Exh. 2.

4. About twenty minutes later (at 4:55 p.m. Central), Cisco filed its Amended Motion to Compel. *See* Docket Entry No. 96.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge.

By:

A handwritten signature in cursive script, appearing to read "Patricia L. Peden", written over a horizontal line.

Patricia L. Peden