EXHIBIT 44

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

ERIC M. ALBRITTON,   )
    Plaintiff,   )
)
VS.   )
)   C.A. NO. 6:08-CV-00089
CISCO SYSTEMS, INC.,   )
RICK FRENKEL, MALLUN YEN &)
JOHN NOH,   )
    Defendants.   )

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ORAL AND VIDEOTAPED DEPOSITION OF

LOUIS BRUCCELERI

NOVEMBER 10, 2008

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ORAL AND VIDEOTAPED DEPOSITION of LOUIS

BRUCCELERI, produced as a witness at the instance of the

Defendants, and duly sworn, was taken in the above-styled

and numbered cause on the 10th of November, 2008, from

12:51 p.m. to 1:12 p.m., before Kathy Genung, a court

reporter, and a notary public in and for the State of

Texas, reported by machine shorthand, at the offices of

Jackson Walker, 1401 McKinney, Suite 2000, Houston, Texas

77010, pursuant to the Federal Rules of Civil Procedure,

notice, and the provisions stated on the record or

attached hereto.

1   THE VIDEOGRAPHER: Here begins the

2   videotape deposition of Louis Brucceleri, in the matter

3   of Eric M. Albritton versus Cisco Systems, Inc., et al,

4   Case Number 6:08-CV-00089.   Today's date is

5   November 10th, 2008.   The time on the video monitor is

6   12:52.   The video operator today is Jim Hanna,

7   representing West Court Reporting Service.   The court

8   reporter is Kathy Genung of HG Litigation Services,

9   reporting on behalf of West Court Reporting Service.

10   Today's deposition is being taken on behalf of the

11   defendant and is taking place at Jackson Walker,

12   1401 McKinney, Houston, Texas.   Counsel, please introduce

13   yourselves and state whom you represent after which will

14   the court reporter please swear the witness.

15   MR. PATTON: I'm Nick Patton.   I represent

16   the plaintiff, Eric Albritton.

17   MS. HAMILTON: Nancy Hamilton on behalf of

18   the defendants.

19   (The witness was sworn)

20   LOUIS BRUCCELERI,

21   called as a witness, testified as follows:

22   EXAMINATION

23   BY MS. HAMILTON:

24   Q.   Would you state your name for the record,

25   please?

1   A.   Louis Brucceleri.

2   Q.   And, Mr. Brucceleri, you are here -- appearing

3   here today for your deposition pursuant to a subpoena,

4   are you not?

5   A.   Correct.

6   Q.   Okay. And let me hand you a copy of that

7   subpoena and ask you if you've seen that previously?

8   A.   It sure looks like it, yeah.

9   Q.   Okay. And although I guess the date is for

10   November 4th, that date was rearranged to today's date of

11   November 10th by agreement?

12   A.   That is my understanding, correct.

13   Q.   Okay. What is your employment?

14   A.   I'm an attorney at a law firm that's Wong,

15   Cabello, Lutsch, Rutherford & Brucceleri, I think, is the

16   full name.

17   Q.   Okay. And where is it located?

18   A.   In Houston, but on the far northwest side. It's

19   not downtown.

20   Q.   Okay. And if you would briefly give me your --

21   what type of law practice?

22   A.   I'm pretty much a patent attorney. I mean, I

23   guess, theoretically, I do all intellectual property;

24   but, you know, 98 percent of my work are patents. I do

25   some patent prosecution. And I can explain that, if

1   does get hired.

2   Q.   Okay. Are you working on any cases with him as

3   your local counsel now?

4   A.   I am.

5   Q.   All right. And what cases are those?

6   A.   Well, there's at least one. It's Apple versus

7   ZapMedia. And I have to think if there's -- My firm

8   probably has other cases with him. I don't know if I

9   have -- I personally have another case with him right

10   now.

11   Q.   But the Apple case is -- is ongoing --

12   A.   Yes.

13   Q.   -- today?

14   A.   It's a Marshall case, yeah.

15   Q.   Okay. And do you -- do you have a social

16   relationship with him as well as a professional

17   relationship?

18   A.   You know, I like to think of him as a friend;

19   but, in fact, my relationship with him has always been

20   around work. Obviously, when we're in the same town

21   working on something together, you know, you go to dinner

22   and it's social. So I would say Eric's my friend, but we

23   don't -- or at least to date, we have never made like

24   separate arrangements to meet in Vegas and to hang out

25   or --

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 1        Q.   Okay.

 2        A.   -- anything like that.  So, yeah, he's my

 3   friend; but it's -- it's all been around business.

 4        Q.   Okay.  You've been disclosed or your name has

 5   been listed on the disclosures in this -- in this case.

 6   And you're familiar with the case, the Albritton versus

 7   Cisco case?

 8        A.   I would say familiar, yeah.  Not in any detail.

 9        Q.   Okay.

10        A.   Yeah, I know what it's about.

11        Q.   And do you --  Did you have the opportunity to

12   discuss with anyone the fact that your name was disclosed

13   as a person with knowledge in this case?

14        A.   Yes.

15        Q.   Okay.  And who was that?

16        A.   Well, Eric.

17        Q.   Okay.

18        A.   Mr. Patton.

19        Q.   Uh-huh.

20        A.   Patty Peden.

21             MR. PATTON:  P-e-d-e-n.

22        Q.   (BY MS. HAMILTON)  Okay.

23        A.   Can I say a client and leave it at that, or must

24   you know a name?

25        Q.   I think we need to know the name.  Sorry.
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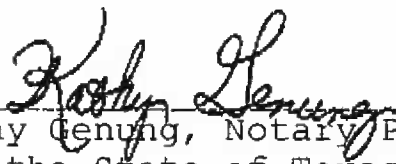
1   THE STATE OF TEXAS)
)
2   COUNTY OF FORT BEND)

3   I, a court reporter, and a notary public in and

4   for the State of Texas, do hereby certify that the

5   matters set forth in the caption to the foregoing

6   deposition are true and correct; that the witness

7   appeared before me at the time and place set forth; that

8   said witness was first duly sworn to tell the truth, and

9   thereupon proceeded to testify in said cause; that the

10 questions of counsel and the answers of the said witness

11 were taken down in shorthand by me and thereafter reduced

12 to typewriting under my direction; and that the foregoing

13 pages comprise a true, correct and complete transcript of

14 the testimony given and the proceedings had during the

15 taking of said deposition.

16   I further certify that I am not counsel,

17 attorney or relative of either party, or otherwise

18 interested in the event of this suit.

19   GIVEN UNDER MY HAND AND SEAL OF OFFICE on this

20 the 10th day of November A.D. 2008.

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23

24 My Commission   Kathy Genung, Notary Public in and
    Exp. 10/10/2009 for the State of Texas

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