

of Texas to do so. At the time of the posting, I did not know the identity of the author or the fact that he was a Cisco employee.

4. The facts set forth in the Patent Troll Tracker posts are false. I did not conspire with the Eastern District of Texas clerk's office to alter the filing date of the ESN complaint in order to create subject matter jurisdiction where none existed. Nor did I seek to deceive the Eastern District of Texas clerk's office into unwittingly altering the filing date of the ESN complaint in order to create subject matter jurisdiction to benefit my client at Cisco's expense.

5. The October 18th post claims that I signed the ESN "Civil Cover Sheet stating that the complaint had been filed on October 15." That is not true. I signed the civil cover sheet on October 15th to open a shell case file as permitted by the local rules. The civil cover sheet was emailed to the clerk's office on October 15th. The clerk opened up a shell case file. Under the local rules, ESN then had 24 hours in which to file a complaint. The civil cover sheet was "filed" as an attachment to the complaint when it was filed on October 16th. I have never signed any document stating that the ESN complaint was filed on Oct. 15th as alleged by Frenkel.

6. I have authored two law journal articles. My first law journal article, written while I was in law school, deals with the Endangered Species Act. My second law journal article, written while in private practice, deals with the topic of criminal law. I have authored no law journal articles about patent litigation or the Eastern District of Texas.

7. I have spoken at a couple of criminal law seminars and once commented about a criminal trial in Tyler, Texas on Court TV. I have never given a public presentation on the topic of patent litigation or the Eastern District of Texas.

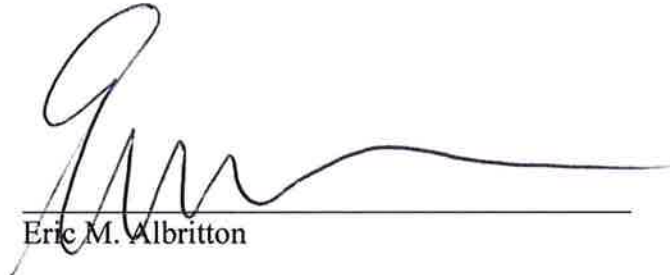
8. I have never sought any publicity for my opinions about patent litigation in the Eastern District of Texas. I am unaware of any publication, news reports or broadcasts that mention me in connection with any discussions.

9. I have never claimed to be a top filer of patent "troll" cases in the Eastern District of Texas.

10. Cisco and Frenkel's defamatory statements have caused me severe emotional distress, shame, embarrassment, humiliation, mental pain and anguish. I will offer testimony during trial concerning these damages.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 6, 2009.



Eric M. Albritton