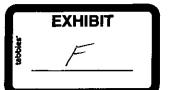
IN THE UNITED STATES DISTRICT COURT EASTERN DISTRICT OF TEXAS TYLER DIVISION

ERIC M. ALBRITTON,	§	
	§	
Plaintiff,	§	
·	§	
v.	§	
	§	NO. 6:08-CV-00089
(1) CISCO SYSTEMS, INC.,	§	
(2) RICHARD FRENKEL, a/k/a	§	
"TROLL TRACKER,"	§	
(3) JOHN NOH and	§	
(4) MALLUN YEN,	§	
	§	
Defendants.	§	

DECLARATION OF ROBERT WILLIAM SZYMANSKI

- I, Robert William Szymanski, declare and testify as follows:
- 1. I make this declaration in support of Plaintiff's Opposition to Cisco's Motion to Strike Plaintiff's Amended (Corrected) Response to Defendant's Motion for Summary Judgment. 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. I am the owner and sole proprietor of DataStandby.com, LLC located in Texarkana, Texas. I have worked in that capacity since 2005.
- 3. One of my clients is the law firm of Patton, Tidwell & Schroeder in Texarkana,
 Texas. I provide general IT support for the firm.
- 4. Before October 15, 2008, I was by Mr. Patton to review header information contained in email documents produced by the law firm of Baker Botts. I was working with Mr. Patton in an attempt to ascertain a time line of events in the *Albritton v. Cisco* litigation. Because Mr. Patton could not provide me with email header information for all emails relevant to the time



line he asked me to create, and because time information on the face of the emails he did provide to me was conflicting and confusing, I was unable to give him a definite time line of events.

- 5. Mr. Patton asked me to work with Defendant's counsel to obtain the email header information I needed to construct an accurate time line. I contacted Jackson Walker's offices on November 26, 2008 to request that information and received additional header information from Jackson Walker which was obtained by Nicholas H. Patton through e-mail and telephone communications.
- 6. Around December 13, I was provided with some additional emails that included the imbedded header information. From those emails I was able to determine the time of some of the correspondence, but not all. I was unable to make a definite determination as to the timing of events because although email headers were provided, that information only provides timing information for the last email in an email string. For several of the emails, I needed additional header information for emails drafted earlier in time.
- 7. I worked with Mr. Patton to request additional email header information from Cisco's counsel. I finally received the information necessary to make a reasonable determination of the timing of the emails set forth in Plaintiff's Opposition Brief on December 18, 2008.
- 8. On December 18, 2008 at approximately 4:30 p.m. Central, I participated in a lengthy telephone conference with Mr. Patton and his co-counsel to piece together the time line of events from the email headers received. This task required me to review multiple emails and cross reference headers provided by Cisco with headers provided by Baker Botts. I compared email header information recently received by Cisco with the time line set forth in Plaintiff's opposition brief and determined that some of the time zone information did not match the header information received from Cisco.

- 9. I am reasonably certain that the time line set forth in Plaintiff' corrected opposition brief is correct, but even that time line may have some inaccuracies as I was forced to surmise some events based on the timing of emails before or after the event in question, and not on header information because some of that information still had not been provided by Cisco.
- 10. I was unable to make a reasonable determination of the timing of events based on header information provided in Cisco's emails until late afternoon on December 18, 2008.
- 11. At all times I acted in good faith in trying to provide Mr. Patton with prompt and accurate information.

Robert William Szymansk