

# EXHIBIT A

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

CERTIFIED COPY

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

\*\*\*\*\*

ORAL DEPOSITION OF  
ERIC M. ALBRITTON  
OCTOBER 27TH, 2008

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ORAL DEPOSITION OF ERIC ALBRITTON, produced as a witness at the instance of the CLAIMANT, and duly sworn, was taken in the above-styled and numbered cause on the 27th of October, 2008, from 12:44 p.m. to 4:24 p.m., before Tammy Staggs, CSR in and for the State of Texas, reported by machine shorthand, at the Law Offices of James A. Holmes, 605 South Main, Suite 203, Henderson, Texas, pursuant to the Federal Rules of Civil Procedure and the provisions stated on the record or attached hereto.

EXHIBIT A

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P R O C E E D I N G S

(Exhibits 21A - 63 marked)

THE VIDEOGRAPHER: Here begins the videotape deposition of Eric Albritton in the matter of Eric M. Albritton vs. Cisco Systems, Inc., Rick Frenkel, et al. Case No. 6:08CV00089. Today's date is October 27th of 2008. The time is approximately 12:44 p.m. Now on the record.

ERIC ALBRITTON,

having been first duly sworn, testified as follows:

EXAMINATION

BY MR. BABCOCK:

Q. Would you state your name, sir.

A. Eric Albritton.

Q. Mr. Albritton, here is Exhibit 21A. I just like to start each deposition with a notice. Obviously you're here, so there's no question about that.

What -- how are you employed?

A. I'm a lawyer.

Q. And do you practice with a firm?

A. I do.

Q. What's the name of the firm?

A. Eric M. Albritton, PC.

Q. And PC stands for professional corporation, correct?

1 say that?

2 A. Because it was filed on the 16th. That is  
3 factually what happened.

4 Q. Were you present in Ms. Mathis's home when she  
5 filed this?

6 A. No, sir.

7 Q. Okay. So you don't have any personal  
8 knowledge of when it was filed?

9 A. The only thing I have personal knowledge of is  
10 what the ECF document generated by the software shows,  
11 that it shows it was filed at 12:01 a.m. And I also  
12 received a copy of the E-mail from the clerk that you  
13 get when things are filed that shows what time it was  
14 filed, and it showed that it was filed at 12:01 a.m.

15 Q. So the sole basis of your knowledge is the  
16 documents generated by the software, correct?

17 A. Yes.

18 Q. Okay.

19 A. And that she told me she filed it at 12:01.

20 Q. But that would -- that would be just something  
21 she told you. It's not necessarily that you were there  
22 watching her, right?

23 A. We already established I was not at her home.

24 Q. Okay. Did -- did -- were you -- were you  
25 counsel of record for ESN in the Connecticut litigation?

1 Q. Did you sign --

2 A. It says -- it says -- you have to be accurate.

3 Q. Mr. Albritton, will you listen to my question?

4 A. It says (as read): ESN counsel signed the  
5 civil cover sheet stating that the complaint had been  
6 filed on October 15th.

7 That is untrue.

8 Q. Okay.

9 A. Did I sign the civil cover sheet on the 15th?

10 That is true.

11 Q. Okay. Thank you.

12 Is ESN a non-practicing entity?

13 A. I have no idea. I assume that's true.

14 MR. BABCOCK: I think we're out of tape,  
15 maybe. Let's take a quick break.

16 THE VIDEOGRAPHER: This is the end of  
17 Tape 2. We're going off the record. The time is  
18 approximately 2:50 p.m.

19 (Recess held, 2:50 p.m. to 3:03 p.m.)

20 THE VIDEOGRAPHER: This marks the  
21 beginning of Tape 3. We're back on the record. The  
22 time is approximately 3:03 p.m.

23 Q. (BY MR. BABCOCK) Mr. Albritton, I'm going to  
24 hand you Exhibit 22, which is something that's called  
25 Patently-O, Patent Law Blog. Have you ever seen this

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CISCO SYSTEMS, INC., RICK \*  
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FRENKEL, MALLUN YEN & \*  
 \*  
JOHN NOH, \*  
 \*  
Defendants. \*

REPORTER'S CERTIFICATION  
DEPOSITION OF ERIC ALBRITTON  
OCTOBER 27TH, 2008

I, TAMMY LEA STAGGS, Certified Shorthand Reporter in  
and for the State of Texas, hereby certify to the  
following:

That the witness, ERIC ALBRITTON, was duly sworn by  
the officer and that the transcript of the oral  
deposition is a true record of the testimony given by  
the witness;

That the deposition transcript was submitted on  
\_\_\_\_\_ to the witness or to the attorney  
for the witness for examination, signature and return to

1 me by \_\_\_\_\_;

2 That the amount of time used by each party at the  
3 deposition is as follows:

4 Mr. James A. Holmes - (0:00)

5 Mr. Charles L. Babcock - (2:38)

6 Mr. George L. McWilliams - (0:35)

7  
8 That pursuant to information given to the deposition  
9 officer at the time said testimony was taken, the  
10 following includes counsel for all parties of record:

11 FOR THE PLAINTIFF:  
12 James A. Holmes, Esq.

13 FOR THE DEFENDANT, CISCO SYSTEMS, INC.:  
14 Charles L. Babcock, Esq.

15 FOR THE DEFENDANT, RICHARD FRENKEL:  
16 George L. McWilliams, Esq.  
17 Nicole Peavy

18  
19  
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21  
22 That \$ \_\_\_\_\_ is the deposition officer's charges  
23 to the Defendant, Cisco Systems, for preparing the  
24 original deposition transcript and any copies of  
25 exhibits;

1 I further certify that I am neither counsel for,  
 2 related to, nor employed by any of the parties or  
 3 attorneys in the action in which this proceeding was  
 4 taken, and further that I am not financially or  
 5 otherwise interested in the outcome of the action.  
 6 certified to by me this 31st of October, 2008.

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Authentic Copy  
 The original certified  
 file was electronically signed  
 using RealLegal technology.

*Tammy Lea Scaggs*  
 \_\_\_\_\_  
 Tammy Lea Scaggs, CSR 7496  
 Expiration Date: 12/31/2009  
 Firm No. Dallas: 69 Houston: 373  
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