

EXHIBIT “E”

1 A P P E A R A N C E S :

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3

4 On behalf of the Plaintiff:

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10 E-mail: nickpatton@texarkanalaw.com

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12

13 On behalf of the Defendant Cisco Systems, Inc.:

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18 Phone: 713.752.4200 Fax: 713.752.4221

19 E-mail: cbabcock@jw.com

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1 A P P E A R A N C E S: (Continued)

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3 On behalf of the Defendant Rick Frenkel:

4 George L. McWilliams, Esq.

5 LAW OFFICES OF GEORGE L. McWILLIAMS, P.C.

6 406 Walnut Street

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10

11 On behalf of the Deponent:

12 GEORGE P. McANDREWS, Esq.

13 McANDREWS HELD & MALLOY, LTD.

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21 ALSO PRESENT:

22 Joe Pate, Videographer

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INDEX

NOVEMBER 7, 2008

WITNESS

EXAMINATION

PETER J. McANDREWS

By Mr. Babcock:	9
By Mr. McWilliams:	78
By Mr. Patton:	88

DEPOSITION EXHIBITS

NUMBER/DESCRIPTION

IDENTIFIED

Exhibit 30	10/17/07 E-mail from pmcandrews	59
	to Eric M. Albritton	
	EMA 1006 - 1007	
	PREVIOUSLY MARKED	

1 DEPOSITION EXHIBITS (Continued)

2 NUMBER/DESCRIPTION IDENTIFIED

3

4 Exhibit 37 2/25/08 e-mail from pmcandrews to 60

5 Eric M. Albritton

6 Subject: Troll Tracker exposed

7 EMA 1363

8 PREVIOUSLY MARKED

9

10

11 Exhibit 121 Subpoena 16

12 (2 pages)

13

14

15 Exhibit 122 4/11/08 letter from Charles 75

16 L. Babcock to George P.

17 McAndrews

18 (1 page)

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21 Exhibit 123 4/7/08 letter from 64

22 George P. McAndrews to

23 Mark Chandler

24 (10 pages)

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DEPOSITION EXHIBITS (Continued)

NUMBER/DESCRIPTION	IDENTIFIED
Exhibit 124 E-mail string Subject: Draft of Complaint EMA 0863 - 0865	76
Exhibit 125 10/15/07 e-mail from pmcandrews to Eric M. Albritton Subject: ESN vs. Cisco Complaint EMA 0865	17
Exhibit 126 E-mail string Subject: Activity in ESN v. Cisco EMA 0938 - 0940	20

1	DEPOSITION EXHIBITS (Continued)	
2	NUMBER/DESCRIPTION	IDENTIFIED
3		
4	Exhibit 127 E-mail string	33
5	Subject: ESN - Battle of	
6	Complaints	
7	EMA 1010 - 1011	
8		
9		
10	Exhibit 128 E-mail string	76
11	Subject: ESN v. Cisco	
12	EMA 1023 - 1024	
13		
14		
15	Exhibit 130 E-mail string: Lawsuit against	48
16	Frenkel	
17	EMA 1365	
18		
19		
20	Exhibit 131 E-mail string	77
21	Subject: ENS - Battle of	
22	Complaints	
23	EMA 1516 - 1517	
24		
25		

1 THE VIDEOGRAPHER: Here begins the video
2 taped deposition of Peter McAndrews, tape one,
3 Volume I, in the matter of Eric M. Albritton
4 versus Cisco Systems, Incorporated, et al., in the
5 United States District Court, Eastern District of
6 Texas, Tyler Division, Case Number 6:08-CV-00089.

7 Today's date is November the 7th, 2008,
8 and the time is approximately 11:15 a.m. on the
9 video monitor.

10 Video operator today is Joe Pate
11 representing West Court Reporting Services. The
12 court reporter is Cynthia Conforti of Thompson
13 Court Reporters reporting on behalf of West Court
14 Reporting Services.

15 Today's deposition is being taken on
16 behalf of the defendant and is taking place at One
17 IBM Plaza, Chicago, Illinois.

18 Will counsel please introduce yourselves
19 and state whom you reserve.

20 MR. PATTON: Nick Patton. I represent the
21 plaintiff Eric Albritton.

22 MR. GEORGE McANDREWS: I'm George
23 McAndrews. I am representing the witness.

24 MR. BABCOCK: Charles Babcock representing
25 Cisco.

1 MR. McWILLIAMS: I'm George McWilliams,
2 representing Rick Frenkel.

3 THE VIDEOGRAPHER: Will the court reporter
4 please swear in the witness.

5 (Witness duly sworn.)

6 PETER J. McANDREWS,
7 called as a witness herein, having been
8 first duly sworn, was examined and testified
9 as follows:

10 EXAMINATION

11 BY MR. BABCOCK:

12 Q. Would you state your name, sir.

13 A. It's Peter J. McAndrews.

14 Q. Mr. McAndrews, what do you do for a
15 living?

16 A. I'm a lawyer.

17 Q. Where do you work?

18 A. I work at the law firm of McAndrews Held &
19 Malloy.

20 Q. In Chicago?

21 A. Yes.

22 Q. Are you a partner in the firm?

23 A. Yes, I am.

24 Q. Okay. And as I understand it, there's
25 some other McAndrews in this firm. One would be

1 maybe, but that's typically how I would use the
2 term.

3 Q. I was playing basketball one day and was
4 really getting into it with a guy and called him a
5 punk, and he was Hispanic, and apparently in that
6 culture calling somebody a punk is a bad thing
7 because next thing I know there was a fist flying
8 by my face, but you -- your definition I think is
9 more accepted in the crowd that we run in.

10 Let me hand you Exhibit 37. This is an
11 e-mail from you to Eric Albritton and with a copy
12 to John Ward, correct?

13 A. That's right.

14 Q. And it's dated February 25th, 2008, 10:31
15 in the morning, correct?

16 A. That's right.

17 Q. And the subject is Troll Tracker exposed,
18 and you send a link. What did you mean by "Troll
19 Tracker exposed"?

20 A. I don't recall if that was title of an
21 article that I read, but I -- but what I was
22 referring to is that Rick Frenkel had outed
23 himself as Troll Tracker.

24 Q. And then you go on to say:

25 Rick Frenkel is the same punk we met with

1 at Cisco last month. Did I, did I read that
2 correctly?

3 A. Yes, you did.

4 Q. And why did you use the phrase "punk" to
5 refer to Rick Frenkel?

6 A. Because I thought that he was
7 disrespectful and somewhat arrogant, and that was
8 surely inclusive of my knowledge at this time that
9 he had written all those defamatory things about
10 my firm, my client and my local counsel and that
11 he had done it anonymously.

12 Q. The -- his, his being disrespectful, young
13 and arrogant was in part based on your
14 interactions with him in a meeting with Cisco the
15 prior month or a month earlier. Is that right or
16 not?

17 A. I would say it was based in part on that
18 but primarily tainted by what I now knew that he
19 had done.

20 Q. All right. And when you say "the
21 defamatory things about my client, my firm and my
22 local counsel," you are referring to the October
23 17th and 18th, 2007 articles, correct?

24 A. Yes. And I believe there was one further
25 article, at least one.

1 In re Albritton vs. Cisco, et al.

2 Case No. 6:08-CV-00089

3

4 I hereby certify that I have read the
5 foregoing transcript of my deposition, given on
6 November 7, 2008, at the place aforesaid,
7 consisting of pages 1 through 97, inclusive, and I
8 do again subscribe and make oath that the same is
9 a true, correct, and complete transcript of my
10 deposition so given as aforesaid, as it now
11 appears.

12 Please check one:

13 _____ I made no corrections

14 _____ Number of errata sheets submitted

15

(Signed)

16

17 _____
PETER J. McANDREWS

18

19 ALSO PRESENT: _____

20

20 SUBSCRIBED AND SWORN TO
21 before me this ____ day
21 of _____ 2008.

22

23 _____
Notary Public

24

25

1 STATE OF ILLINOIS)

2) SS:

3 COUNTY OF C O O K)

4 The within and foregoing deposition of
5 the witness, PETER J. McANDREWS, was taken before
6 CYNTHIA J. CONFORTI, CSR, CRR, Notary Public, at
7 Suite 4000, 333 North Wabash Avenue, in the City
8 of Chicago, Illinois, commencing at 11:14 a.m., on
9 November 7, 2008.

10 The said witness was first duly sworn and
11 was then examined upon oral interrogatories; the
12 questions and answers were taken down in shorthand
13 by the undersigned, acting as stenographer and
14 Notary Public; and the within and foregoing is a
15 true, accurate and complete record of all the
16 questions asked of and answers made by the
17 aforementioned witness at the time and place
18 hereinabove referred to.

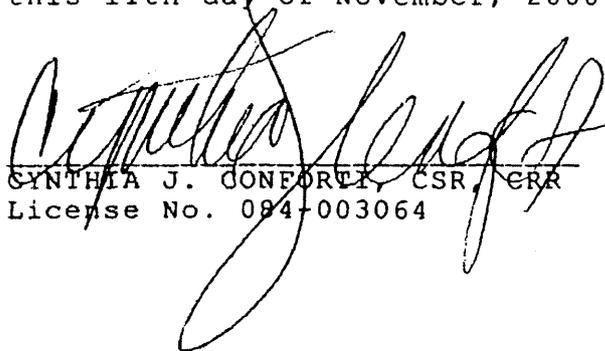
19 The signature of the witness was not
20 waived and the deposition was submitted to the
21 deponent as per copy of the attached letter.

22 The undersigned is not interested in the
23 within case, nor of kin or counsel to any of the
24 parties.

25 Witness my official signature and seal as

1 Notary Public in and for Cook County, Illinois, on
2 this 11th day of November, 2008.

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Handwritten signature of Cynthia J. Conforti in cursive script, written over the printed name and license information.

~~CYNTHIA J. CONFORTI, CSR, CRR~~
License No. 084-003064