

EXHIBIT C

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

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

ORAL AND VIDEOTAPED DEPOSITION OF

MICHAEL SMITH

November 24th, 2008

ORAL AND VIDEOTAPED DEPOSITION OF MICHAEL SMITH,
produced as a witness at the instance of the
DEFENDANT, and duly sworn, was taken in the
above-styled and -numbered cause on the 24th day of
November, 2008, from 1:15 p.m. to 4:08 p.m., before
Regenia Plant, CSR in and for the State of Texas,
reported by machine shorthand, at the law offices of
Siebman, Reynolds, Burg, Phillips & Smith, LLP, 713
South Washington Avenue, Marshall, Texas, pursuant to
the Federal Rules of Civil Procedure.

1 reporter please swear in the witness.

2 MICHAEL SMITH,
3 after having been first duly sworn, testified as
4 follows:

5 EXAMINATION

6 BY MR. BABCOCK:

7 Q. Would you state your name, sir.

8 A. Michael Charles Smith.

9 Q. Mr. Smith, let me hand you Exhibit 135, which
10 is the notice of deposition today, which came with a
11 subpoena; is that correct?

12 A. Yes.

13 Q. And after a couple of false starts, we have
14 agreed that today will be the day we'll take your
15 deposition, correct?

16 A. Correct.

17 Q. And your counsel has -- Mr. Siebman has
18 provided me some documents. I have marked them as --
19 as a bulk exhibit as 159 and I want to tender them to
20 you and make sure that you agree that Exhibit 159
21 consists of all the documents that you have produced
22 pursuant to the subpoena.

23 A. That's correct, it does.

24 Q. All right. Thanks. If you'll hand them back
25 to me, I'll probably talk about specific documents in

1 you've known him, five or ten years, period?

2 A. I -- I would really be guessing because I
3 don't really know which of the cases I've been in, he
4 was actually involved in.

5 Q. Okay. Fair enough. During the time that you
6 have known him, have you determined whether he has a
7 reputation, be it good, bad, indifferent?

8 A. Yes.

9 Q. All right. And do you -- are you aware that
10 you've been designated by Mr. Albritton as a witness
11 on his reputation?

12 A. No, I wasn't aware of that.

13 Q. Okay. Well, Mr. Holmes can correct me if I'm
14 wrong, but I think Mr. Albritton has done that. So my
15 question to you is, what is his reputation.

16 A. I'm not aware of anything negative about his
17 reputation in the -- in the legal community.

18 Q. Okay. Do you -- do you know whether he has
19 -- I appreciate your saying you're not aware of
20 anything negative. Are you -- do you think that he
21 has a good reputation?

22 A. Generally, yes. I'm not aware of anything
23 that would cause me to say that he doesn't.

24 Q. Okay. Has his reputation changed in the past
25 five or ten years, how ever long you've known him?

1 A. No.

2 Q. Okay. Has he ever referred you a case?

3 A. Not that I know of.

4 Q. Okay. Have you ever referred him a case that
5 you know of?

6 A. I may have referred a -- I don't think so. I
7 might have sent a -- a call on a criminal case to him
8 one time or -- or maybe -- there was one time in a
9 civil case where someone was asking me to be local
10 counsel and I think it was a civil rights case or
11 something like that and he was one of the people that
12 I -- that I referred them to.

13 Q. All right. Is there any reason why you
14 wouldn't refer an appropriate case to him?

15 A. No.

16 Q. Okay. You are aware to some degree, I take
17 it, that Mr. Albritton has sued Cisco and a fellow by
18 the name of Rick Frenkel for defamation.

19 A. Yes.

20 Q. All right. Have you talked to Mr. Albritton
21 about this case?

22 A. Not about this case, no.

23 Q. Okay.

24 A. Let -- let me qualify that.

25 Q. Sure.

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

1	ERIC M. ALBRITTON,)	
2)	
3)	
4	PLAINTIFF,)	
5)	
6	VS.)	CIVIL ACTION
7)	
8	CISCO SYSTEMS, INC., RICK)	NO.: C.A. NO.
9	FRENKEL, MALLUN YEN &)	6:08-CV-00089
10	JOHN NOH,)	
11)	
12)	
13	DEFENDANTS.)	

REPORTER'S CERTIFICATION
DEPOSITION OF MICHAEL SMITH
NOVEMBER 24, 2008

I, REGENIA PLANT, Certified Shorthand Reporter in
and for the State of Texas, hereby certify to the
following:

That the witness, MICHAEL SMITH, 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 me by _____;

1 That the mount of time used by each party at the
2 deposition is as follows:

3 MR. BABCOCK.....01 HOUR(S):53 MINUTE(S)

4 MR. McWILLIAMS.....00 HOUR(S):29 MINUTE(S)

5 MR. HOLMES.....00 HOUR(S):29 MINUTE(S)

6 MR. SIEBMAN.....00 HOUR(S):00 MINUTE(S)

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

11 FOR THE PLAINTIFF:

12 Mr. James A. Holmes
13 THE LAW OFFICE OF JAMES A. HOLMES
14 605 South Main, Suite 203
15 Henderson, Texas 75654
16 (903) 657-2800
17 (903) 657-2855 (fax)

18 FOR THE DEFENDANT CISCO SYSTEMS, INC.:

19 Mr. Charles L. Babcock
20 JACKSON WALKER, L.L.P.
21 1401 McKinney
22 Suite 1900
23 Houston, Texas 77010
24 (713) 752-4200
25 (713) 752-4221 (fax)

FOR THE DEFENDANT RICHARD FRENKEL:

Mr. George L. McWilliams
LAW OFFICE OF GEORGE L. McWILLIAMS, P.C.
406 Walnut
P.O. BOX 58
Texarkana, AR-TX 75504-0058
(870) 772-2055
(870) 773-2967 (fax)

1 FOR MR. MICHAEL SMITH:

2 Mr. Clyde H. Siebman
3 SIEBMAN, REYNOLDS, BURG, PHILLIPS & SMITH
4 Federal Courthouse Square
5 300 N. Travis Street
6 Sherman, Texas 75090
7 (903) 870-0070
8 (903) 870-0066 (fax)

9 That \$ _____ is the deposition officer's
10 charges to the Defendant Cisco Systems, Inc., for
11 preparing the original deposition transcript and any
12 copies of exhibits;

13 I further certify that I am neither counsel for,
14 related to, nor employed by any of the parties or
15 attorneys in the action in which this proceeding was
16 taken, and further that I am not financially or
17 otherwise interested in the outcome of the action.

18 Certified to by me this 25th day of November,
19 2008.

20 *Regenia Plant*

21 Regenia Plant, Texas CSR 7819
22 Expiration Date: 12/31/08
23 West Court Reporting Services
24 221 Main Street, Suite 1250
25 San Francisco, CA 94105
(800) 548-3668

IN THE UNITED STATES DISTRICT COURT
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.	*

CERTIFIED

ORAL DEPOSITION OF
ELIZABETH DeRIEUX
NOVEMBER 5TH, 2008

ORAL DEPOSITION OF ELIZABETH DeRIEUX, produced as a witness at the instance of the DEFENDANT, CISCO, and duly sworn, was taken in the above-styled and numbered cause on the 5th of November, 2008, from 11:42 a.m. to 11:54 a.m., before Tammy Staggs, CSR in and for the State of Texas, reported by machine shorthand, at the Law Offices of Capshaw & DeRieux, 1127 Judson Road, Suite 220, Longview, Texas, pursuant to the Federal Rules of Civil Procedure and the provisions stated on the record or attached hereto.

1 MR. CAPSHAW: Calvin Capshaw representing
2 Elizabeth DeRieux.

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

5 ELIZABETH DeRIEUX,
6 having been first duly sworn, testified as follows:

7 EXAMINATION

8 BY MR. BABCOCK:

9 Q. Would you state your name, please.

10 A. Elizabeth DeRieux.

11 Q. And how are you employed, Ms. DeRieux?

12 A. I'm an attorney with Capshaw & DeRieux.

13 Q. And that is a law partnership, I take it?

14 A. It is.

15 Q. And is this handsome gentleman to your right
16 your partner, Mr. Capshaw?

17 A. It is.

18 Q. Could you tell me your educational background?

19 A. I have a JD from the University of Houston
20 College of Law, 1984, and an undergraduate degree from
21 Lamar University in English 1980.

22 Q. Do you know the plaintiff in this case Eric M.
23 Albritton?

24 A. I do.

25 Q. And when did you first meet Mr. Albritton?

1 Mr. Albritton in a business professional sense?

2 A. Not that I can think of.

3 Q. Okay. Do you have a personal relationship
4 with Mr. Albritton? Are you social friends, that type
5 of thing?

6 A. I consider him my friend. We -- our families
7 don't socialize. He's never been to my home. I've
8 never been to his home. But, yes, I consider him my
9 friend.

10 Q. Okay. You I'm sure are aware since you're
11 sitting here that Mr. Albritton has designated you as a
12 witness or disclosed you as a witness in this case. And
13 his disclosure says that you have knowledge of the
14 professional reputation and integrity of the plaintiff
15 Mr. Albritton. Do you have such knowledge?

16 A. I do.

17 Q. All right. Would you tell me what knowledge
18 you have on that subject?

19 A. Because I have worked for him and against him,
20 I would say that he has a good reputation, at least in
21 my firm and in -- among the lawyers that I know and work
22 with here in Longview. He's very, very bright, good
23 lawyer, ethical, hard working. And I'm trying not to
24 circle back around and say very, very bright because
25 that's what I keep thinking. I think that that's the

1 quality that I think of first when I think of Eric.

2 Q. Okay. Would you refer a case to him -- would
3 you refer a client to him?

4 A. I would.

5 Q. Okay. Have you ever?

6 A. I can't think of one right off, but I might
7 have.

8 Q. Okay. Has his reputation in your mind changed
9 from the time that you first got to know him
10 professionally to today, which is September 5th, 2008
11 [sic]?

12 A. Yes.

13 Q. Okay. And how has it changed?

14 A. When I first got to know him, he was a baby
15 lawyer. Perhaps not even -- I don't believe he was even
16 licensed at the time I first met him. And so I thought
17 at the time that he was very, very bright, and I didn't
18 know a lot about his personal integrity or his practice.
19 And I think since that time, I have gotten to know him
20 better. And he began his own practice, so his own
21 practice grew and with that his reputation grew.

22 Q. Okay. And when you say "his reputation grew,"
23 did his -- did his reputation increase or was it better
24 over time or worse over time or somewhere in the middle?
25 When you say "his reputation grew," what do you mean by

1 that?

2 A. His reputation is better.

3 Q. Better today than it was --

4 A. Than it was when I met him.

5 Q. Okay.

6 A. Yes, I believe that's right.

7 Q. Okay.

8 MR. BABCOCK: That's all I have. Thank
9 you. And thanks for accommodating our schedule here, we
10 appreciate it. Mr. McWilliams may have some questions
11 now.

12 EXAMINATION

13 BY MR. McWILLIAMS:

14 Q. Just a couple, Ms. DeRieux. Have you been
15 asked to come here today or serve as a witness in this
16 case to render any opinions other than the reputational
17 opinions that you have about Mr. Albritton?

18 MR. PATTON: Objection, form.

19 A. No.

20 Q. (BY MR. McWILLIAMS) Let me ask you about the
21 Inns of Court that you mentioned. What is the
22 membership of the Inns of Court organization that you
23 belong to?

24 A. I'm not sure what you're asking me. How many
25 people?

IN THE UNITED STATES DISTRICT COURT
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.	*

REPORTER'S CERTIFICATION
DEPOSITION OF ELIZABETH DeRIEUX
NOVEMBER 5TH, 2008

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

That the witness, ELIZABETH DeRIEUX, 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
me by _____;

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

3 Mr. Nick Patton - (0:02)

4 Mr. Charles L. Babcock - (0:08)

5 Mr. George L. McWilliams - (0:02)

6 Mr. Sidney Calvin Capshaw - (0:00)

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 Nick Patton, Esq.

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

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

18 FOR THE WITNESS:
19 Sidney Calvin Capshaw, Esq.

20
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;

I further certify that I am neither counsel for, related to, nor employed by any of the parties or attorneys in the action in which this proceeding was taken, and further that I am not financially or otherwise interested in the outcome of the action. certified to by me this 7th of November, 2008.

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

Tammy Lea Staggs
Tammy Lea Staggs, CSR 7496
Expiration Date: 12/31/2009
Firm No. Dallas: 69 Houston: 373
HG Litigation Services
2501 Oak Lawn Avenue
Suite 600
Dallas, Texas 75219
214.521.1188 Fax 214.521.1034
1.888.656.DEPD

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IN THE UNITED STATES DISTRICT COURT
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.	*

ORAL DEPOSITION OF
OTIS CARROLL
NOVEMBER 5TH, 2008

ORAL DEPOSITION OF OTIS CARROLL, produced as a witness at the instance of the CLAIMANT, and duly sworn, was taken in the above-styled and numbered cause on the 5th of November, 2008, from 9:25 a.m. to 9:36 a.m., before Tammy Staggs, CSR in and for the State of Texas, reported by machine shorthand, at the Law Offices of Ireland, Carroll and Kelley, 6101 Broadway, Suite 500, Tyler, Texas, pursuant to the Federal Rules of Civil Procedure and the provisions stated on the record or attached hereto.

1 representing Rick Frenkel.

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

4 OTIS CARROLL,
5 having been first duly sworn, testified as follows:

6 EXAMINATION

7 BY MR. BABCOCK:

8 Q. Would you state your name, sir.

9 A. Otis Carroll.

10 Q. Mr. Carroll, how are you employed?

11 A. I'm a lawyer.

12 Q. And are you -- do you practice with a law
13 firm?

14 A. I do. A firm called Ireland, Carroll, and
15 Kelley in Tyler, Texas.

16 Q. That was my next question.

17 Mr. Carroll, you have been designated or
18 disclosed as a witness in the case that you're giving
19 your deposition in today by the plaintiff Eric
20 Albritton. And it says, in its entirety, (as read):
21 Mr. Carroll has knowledge of the professional reputation
22 and integrity of the plaintiff.

23 Do you know anything about that?

24 A. I do.

25 Q. And what do you know?

1 A. I have my opinion about Eric Albritton's
2 professional reputation and integrity, and I understood
3 that's what he was disclosing me to talk to.

4 Q. That's what -- that's what it looks like.
5 What is your opinion of Mr. Albritton's professional
6 reputation and -- and integrity?

7 A. I think it's impeccable. I think he's got a
8 reputation as being a fine -- to me and probably to Nick
9 Patton, he's still a young trial lawyer, but...

10 Q. You can throw me in on that one too.

11 A. And to you Chip, I forgot. But he's a fine
12 young lawyer. And in my -- my mind he's got a great
13 reputation. And that's -- kind of sums it up.

14 Q. All right. And -- and have you changed your
15 opinion as to his reputation at any time between when
16 you first knew him as a lawyer and today, which is
17 November 5th, 2008, the day after the great election?

18 A. Well, I think, you know, my opinion of him has
19 improved. I met -- I was trying to think of this this
20 morning. I think I met him initially when he was a law
21 clerk to Judge Justice. And I can't remember when it
22 was, but I'm guessing it was at least 15, maybe even 20
23 years ago. And then I knew him when he went to work for
24 Scrappy Holmes and then when he -- he left and I've had
25 cases with him and I've had cases against him and my --

1 to answer your question, my opinion of his abilities and
2 his reputation has grown. I think he's -- you know,
3 he's somebody I'm glad to count as a colleague and a
4 friend.

5 Q. So his reputation in your mind is --

6 MR. PATTON: Objection, leading.

7 Q. (BY MR. BABCOCK) His reputation in your mind
8 is better today than it might have been a year ago or
9 two years ago or five years ago?

10 A. Well, to me it is.

11 Q. Yeah, okay. Will you tell me whether
12 you're -- and I think you've already said this, but will
13 you tell me whether his reputation in your eyes has
14 improved over the last five years?

15 A. I mean, it has to me. And, you know, because
16 he and I are doing the same kind of work and we weren't
17 before. He was doing more criminal trial practice. And
18 he got into the commercial practice and the IP practice,
19 which a lot of us around here do, and I got to see more
20 of him. So, you know, I guess that's the basis for my
21 opinion as much as anything.

22 Q. Okay. Have you ever referred him a case?

23 A. Yeah, sure have. The first -- first patent
24 case he ever had.

25 Q. When was that?

IN THE UNITED STATES DISTRICT COURT
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. *

REPORTER'S CERTIFICATION
DEPOSITION OF OTIS CARROLL
NOVEMBER 5TH, 2008

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

That the witness, OTIS CARROLL, 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
me by _____;

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

- 3 Mr. Nick Patton - (0:02)
- 4 Mr. Charles L. Babcock - (0:07)
- 5 Mr. George L. McWilliams - (0:02)

6
7 That pursuant to information given to the deposition
8 officer at the time said testimony was taken, the
9 following includes counsel for all parties of record:

- 10 FOR THE PLAINTIFF:
11 Nick Patton, Esq.
- 12 FOR THE DEFENDANT, CISCO SYSTEMS, INC.:
13 Charles L. Babcock, Esq.
14 Crystal Parker
- 15 FOR THE DEFENDANT, RICHARD FRENKEL:
16 George L. McWilliams, Esq.

17
18
19
20
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 7th of November, 2008.

7
8
9 *Tammy Lea Scaggs*

10 Tammy Lea Scaggs, CSR 7496
11 Expiration Date: 12/31/2009
12 Firm No. Dallas: 69 Houston: 373
13 HG Litigation Services
14 2501 Oak Lawn Avenue
15 Suite 600
16 Dallas, Texas 75219
17 214.521.1188 Fax 214.521.1034
18 1.888.656.DEPO

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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.)	

ORAL AND VIDEOTAPED DEPOSITION OF
LOUIS BRUCCELERI
NOVEMBER 10, 2008

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 Bruccleri, 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 Bruccleri.

2 Q. And, Mr. Bruccleri, 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 & Bruccleri, 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 Q. Okay.

2 A. -- you know, it's Marshall for now.

3 Q. Okay.

4 A. Yeah.

5 Q. All right. I guess, you know, you've been
6 identified as someone with knowledge of Mr. Albritton's
7 reputation. And I think you've touched on that, but --
8 but, you know, what is your knowledge of his reputation?

9 A. So among -- among the folks that I'm close with
10 and work with, he's got a stellar reputation.

11 Q. Okay.

12 A. He's a go-to guy.

13 Q. And do you have any opinion or knowledge of his
14 integrity?

15 A. So -- Only through my experiences. And I would
16 say it's impeccable. I could convey, you know,
17 anecdotally, he -- he is a guy that reins -- when I say
18 us in, I would consider myself as general counsel as
19 opposed to local. And not that we would ever
20 intentionally do things that were kind of cute as opposed
21 to perfectly professionally; but if it even smells like
22 that, you know, Eric will put you in your place and make
23 sure you don't do it on anything he's working on, anyway.

24 Q. Okay. And so has -- And that's your opinion of
25 his reputation today?

1 A. Correct.

2 Q. Okay. And has his reputation changed, in your
3 mind, from the time when you first got to know him till
4 today?

5 A. No.

6 Q. Okay. Would you ever refer a case to him?

7 A. Yes.

8 Q. Okay. Have you referred any cases to him?

9 A. Yes.

10 Q. And how many?

11 A. Well, I don't do a lot of litigation.

12 Q. Okay.

13 A. But since I met him, I'm pretty sure every case
14 I've had in East Texas, which might be between four and
15 seven or eight, but probably closer to four. But I'd
16 have to count them up, because sometimes there's multiple
17 filings in a similar case.

18 Q. Okay. Have you had any discussions with anyone
19 at Cisco about Mr. Albritton?

20 A. No. You know, Mallun Yen and I had a
21 conversation where we touched on the Troll Tracker topic,
22 but we didn't talk about Eric and -- and we didn't talk
23 in any detail.

24 Q. And what -- what was it that you touched on with
25 Troll Tracker?

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.

21
22
23 
24 My Commission Kathy Genung, Notary Public in and
Exp. 10/10/2009 for the State of Texas

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.)	

ORAL AND VIDEOTAPED DEPOSITION OF
DANNY LLOYD WILLIAMS
NOVEMBER 10, 2008

ORAL AND VIDEOTAPED DEPOSITION of DANNY LLOYD WILLIAMS, 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 9:55 a.m. to 10:10 a.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 Danny Williams, tape one, volume
3 one, in the matter of Eric M. Albritton versus Cisco
4 Systems, Inc., et al, Case 6:08-CV-00089. Today's date
5 is November 10, 2008. And the time on the video monitor
6 is 9:55. 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 depo -- today's deposition is being taken on
11 behalf of the defendant and is taking place at Jackson
12 and Walker, 1401 McKinney, Houston, Texas. Counsel,
13 please introduce yourselves and state whom you represent
14 after which the court reporter will swear in the witness.

15 MR. PATTON: I'm Nick Patton. I represent
16 the plaintiff, Eric Albritton.

17 MS. HAMILTON: Nancy Hamilton with Jackson
18 Walker, representing Cisco Systems, Inc., et al.

19 (The witness was sworn)

20 DANNY LLOYD WILLIAMS,

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. Yes. Danny Lloyd Williams.

2 Q. And, Mr. Williams, let me ask you if you're
3 appearing here today pursuant to a notice of subpoena?

4 A. Yes.

5 Q. And have you had a chance to look at that
6 document that I've handing you? That's the notice of
7 subpoena. Have you had a chance to look at that
8 previously?

9 A. Yes.

10 Q. Okay. And you are appearing pursuant to that
11 subpoena?

12 A. Yeah. I think the day was redone; but
13 otherwise, yes.

14 Q. Right. The date on the subpoena, I think, says
15 November 4th; and by agreement, it was changed to today,
16 November 10th?

17 A. That's right.

18 Q. Okay. Thank you. Mr. Williams, how are you
19 employed?

20 A. I'm a partner at Williams, Morgan & Amerson, a
21 firm here in town.

22 Q. And that's a law firm. Right?

23 A. Yes, ma'am.

24 Q. Okay. And what is your educational background?
25 You don't have to go back to high school.

1 A. But I don't -- I don't think anyone's ever said
2 we're putting you down as having knowledge of this or
3 that fact. I don't recall that, at least.

4 Q. Okay.

5 MR. PATTON: Nancy, I don't -- I don't want
6 you to be misled. I've only been in this case a
7 month --

8 MS. HAMILTON: Okay.

9 MR. PATTON: -- or a little -- little
10 better. So when the disclosures were made, I wasn't
11 involved at all. And I thought that might help you.

12 MS. HAMILTON: Right.

13 MR. PATTON: There's a little confusion. I
14 came in late.

15 MS. HAMILTON: That's okay.

16 MR. PATTON: Okay.

17 MS. HAMILTON: That's fine.

18 Q. (BY MS. HAMILTON) Well, I'll tell you, at least
19 from the disclosures that I've read, that you've been
20 disclosed as someone having knowledge of the professional
21 reputation and integrity of Mr. Albritton.

22 A. All right.

23 Q. Would that be consistent with your knowledge?

24 A. I think I do have knowledge of his reputation,
25 yes.

1 Q. And what is that knowledge?

2 A. I mean, I've known Eric for a number of years.
3 I've worked with him. I've worked opposite of him. I --
4 I believe Eric has high professional integrity. If he
5 told me something in a case, whether he were opposing
6 counsel or a co-counsel, I would -- I would believe it.
7 I just find him to be a person of high integrity --

8 Q. Okay.

9 A. -- professionally.

10 Q. And how do you find his reputation? Do you have
11 an opinion of his reputation as well as his integrity?

12 A. I think the people who know Eric, with those
13 people, he has a good reputation. I guess the people
14 that I talk to generally do know Eric. So I think that
15 the people who know him believe he has a very good
16 reputation. I think he has a good reputation.

17 Q. Okay. So you think --

18 A. At least among those people who know him, yes.

19 Q. Do you think he might not have a good reputation
20 among those who don't know him? I mean, I want to get
21 what -- What is your opinion of his reputation?

22 A. My opinion is that he has a good reputation, at
23 least among those people who know him. I don't -- I'm
24 not sure I can speak --

25 Q. Okay.

1 A. -- to those people who don't know him.

2 Q. Okay. And would you refer a case to him?

3 A. Would I refer a case to him?

4 Q. Uh-huh, yes.

5 A. Yes.

6 Q. Okay. Have you ever done so?

7 A. I have brought him in on cases. I'm trying
8 to -- I don't know. When you say "refer," do you mean
9 give him a case that I don't stay involved in?

10 Q. Yes.

11 A. I can't recall one right now.

12 Q. Okay. You said that you -- you have brought him
13 in on cases. So has he worked with you on cases, on the
14 same side of the case?

15 A. Yes.

16 Q. And are you currently working with him on any
17 cases?

18 A. Yes.

19 Q. Can I have the name of the case?

20 A. We represent together Aloft Media. They are a
21 handful of cases or less. We represent an outfit called
22 Stragent. Let's see. We represent Apple together. Now,
23 these cases I'm giving you, I didn't bring him in on all
24 these cases. But the question was what cases I'm working
25 with him?

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

IN THE UNITED STATES DISTRICT COURT
EASTERN DIVISION 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 and JOHN NOH,]

Defendants.]

_____]

The video taped deposition of PETER J. McANDREWS, called by the Defendant Cisco Systems, Inc. for examination, pursuant to subpoena and pursuant to the Federal Rules of Civil Procedure for the United States District Courts pertaining to the taking of depositions, taken before Cynthia J. Conforti, Certified Shorthand Reporter, at 333 North Wabash, Suite 4000, Chicago, Illinois, commencing at the hour of 11:14 a.m. on the 7th day of November, A.D., 2008.

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 certainly something that the clients would
2 consider.

3 MR. McWILLIAMS: Objection, nonresponsive.

4 BY MR. McWILLIAMS:

5 Q. Have you heard any lawyer who practices in
6 the Eastern District of Texas be critical of
7 Johnny Ward or Eric Albritton's reputation since
8 the Troll Tracker article?

9 A. I have not personally heard that, no.

10 Q. Now, do I understand that in the filing of
11 the ESN complaint that the basic communication
12 with Eric Albritton's office was with Amie Mathis
13 and you?

14 A. No, that's not true. She took over -- as
15 was discussed earlier, she took over the
16 communication chain later in the afternoon after
17 the complaint was in Mr. Albritton's firm's hands.

18 Q. Okay. She took over the communication
19 chain late in the afternoon of October the 15th.

20 A. That's right.

21 Q. And then she continued in that
22 communication chain through the 15th and the 16th.
23 And what about the 17th?

24 A. You know, I don't recall whether there
25 were any communications with Amie on the 16th.

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.

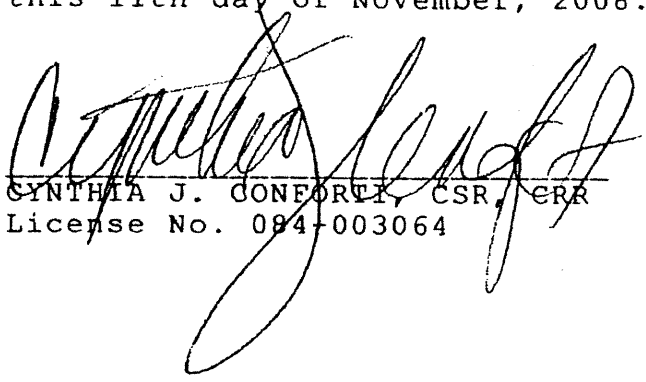
19 The signature of the witness was not
20 waived and the deposition was submitted to the
21 deponent as per copy of the attached letter.

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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CYNTHIA J. CONFORTI, CSR, CRR
License No. 094-003064