

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

ERIC M. ALBRITTON,

Plaintiff

v.

**CISCO SYSTEMS, INC. and RICHARD
FRENKEL**

Defendant

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No. 6:08cv00089

**ORDER REGARDING DEFENDANTS' OBJECTIONS TO
PLAINTIFF'S AMENDED TRIAL EXHIBIT LIST**

On September 1, 2009, the Court conducted a pretrial conference regarding Defendants' remaining objections to Plaintiff's Amended Trial Exhibit List. As to those Exhibits Plaintiff Expects to Offer at Trial, and as stated fully on the record at the hearing, the Court rules as follows:

Pltf. No.	Admitted	Objection Sustained/ Not Admitted	Exhibit Withdrawn	Description of Exhibit	Bates Label(s)
1.	√			November 1, 2007 letter to Eric Albritton from Garret Chambers memorializing agreement between Cisco Systems, Inc. And Cisco-Linksys, LLC and ESN	EMA 00001 – 00003
10.	√			Civil Cover Sheet; Cause No. 5:07cv156; ESN v. Cisco Systems, Inc. and Cisco-Linksys, LLC with 10/15/2007 banner	EMA 00014

Pltf. No.	Admitted	Objection Sustained/ Not Admitted	Exhibit Withdrawn	Description of Exhibit	Bates Label(s)
11.	√			Complaint for Patent Infringement; ESN v. Cisco Systems, Inc. and Cisco-Linksys, LLC; EDTX No. 5:07cv156 with 10/15/07 banner	EMA 00015-00088
15.	√			Ex. C, (DE #3) in the ESN v. Cisco Systems, Inc. and Cisco-Linksys, LLC; EDTX No. 5:07cv156 matter	EMA 00196-00198
16.	√			Ex. D, (DE #3) in the ESN v. Cisco Systems, Inc. and Cisco-Linksys, LLC; EDTX No. 5:07cv156 matter	EMA 00199-00208
17.	√			First Amended Complaint (DE #3) filed in the ESN v. Cisco Systems, Inc. and Cisco-Linksys, LLC; EDTX No. 5:07cv156 matter	EMA 00209-00215
20.	√			DE #6 – Plaintiff's Motion to Enjoin Defendants Cisco and Linksys From Prosecuting Later-Filed Parallel Litigation in Connecticut filed in the ESN v. Cisco Systems, Inc. and Cisco-Linksys, LLC; EDTX No. 5:07cv156 matter	EMA 00219-00339
26.	√			DE #12 – Stipulation of Dismissal Without Prejudice filed in the ESN v. Cisco Systems, Inc. and Cisco-Linksys, LLC; EDTX No. 5:07cv156 matter	EMA 00356-00359

Pltf. No.	Admitted	Objection Sustained/ Not Admitted	Exhibit Withdrawn	Description of Exhibit	Bates Label(s)
27.	√			Order of Dismissal Without Prejudice filed in the ESN v. Cisco Systems, Inc. and Cisco-Linksys, LLC; EDTX No. 5:07cv156 matter on November 19, 2007	EMA 00360
28.	√			10/15/2007 Civil Cover Sheet re: ESN v. Cisco Systems, Inc. and Cisco-Linksys, LLC	EMA 00361
31.	√			Complaint for Patent Infringement re: ESN v. Cisco Systems, Inc. and Cisco-Linksys, LLC; EDTX No. 5:07cv156	EMA 00429-00489
32.	√			Notice of Electronic Filing of ESN v. Cisco Systems, Inc. and Cisco-Linksys, LLC; EDTX No. 5:07cv156, Complaint entered on 10/16/07 and filed on 10/15/07	EMA 00490-00491
36.	√			Draft of First Amended Complaint for Patent Infringement re: the ESN v. Cisco Systems, Inc. and Cisco-Linksys, LLC; EDTX No. 5:07cv156 matter	EMA 00495-00501
37.	√			First Amended Complaint for Patent Infringement re: the ESN v. Cisco Systems, Inc. and Cisco-Linksys, LLC; EDTX No. 5:07cv156 matter	EMA 00502-00636
38.	√			Notice of Electronic Filing of Amended Complaint (DE #3) entered in the ESN v. Cisco Systems, Inc. and Cisco-Linksys, LLC;	EMA 00637-00638

Pltf. No.	Admitted	Objection Sustained/ Not Admitted	Exhibit Withdrawn	Description of Exhibit	Bates Label(s)
				EDTX No. 5:07cv156 matter	
41.	√			Complaint for Patent Infringement filed in the ESN v. Cisco Systems, Inc. and Cisco-Linksys, LLC; EDTX No. 5:07cv156 matter with 10/16/2007 banner	EMA 00695-00700
47.	√			Plaintiff's Motion to Enjoin Defendants Cisco and Linksys From Prosecuting Later-Filed Parallel Litigation in Connecticut re: ESN v. Cisco Systems, Inc. and Cisco-Linksys, LLC; EDTX No. 5:07cv156	EMA 0797-0810
48.	√			Stipulation of Dismissal Without Prejudice re: ESN v. Cisco Systems, Inc. and Cisco-Linksys, LLC; EDTX No. 5:07cv156	EMA 0811-0816
51.	√			Summons (Cisco Systems, Inc.) re: ESN v. Cisco Systems, Inc. and Cisco-Linksys, LLC; EDTX No. 5:07cv156 (issued 10/17/07)	EMA 0821-0822
63.	√ with ordered redactions			Notice of Filing Complaint re: ESN v. Cisco Systems, Inc. and Cisco-Linksys, LLC; EDTX No. 5:07cv156	EMA 0851-0852
64.	√ with ordered redactions			System Transactions 1/1/1980-3/13/2008 re: ESN v. Cisco Systems, Inc. and Cisco-Linksys, LLC; EDTX No. 5:07cv156	EMA 0853-0856

Pltf. No.	Admitted	Objection Sustained/ Not Admitted	Exhibit Withdrawn	Description of Exhibit	Bates Label(s)
67.	√			October 12, 2007 e-mail from Eric Albritton to Mathis re:calendar filing at 12:01 am	EMA 0862
68.	√			October 15, 2007 e-mail from Pete McAndrews to Albritton, et al re:draft of complaint	EMA 0863-0864
76.	√			October 15, 2007 e-mail from Mathis to McAndrews re: pro hac application and sending copy of complaint after it is filed at 12:01	EMA 0932
77.	√			Notice of Filing Complaint re: ESN v. Cisco Systems, Inc. and Cisco-Linksys, LLC; EDTX No. 5:07cv156	EMA 0933-0934
78.	√			October 16, 2007 e-mail from Mathis to McAndrews re: Notice of Filing Complaint re: ESN v. Cisco Systems, Inc. and Cisco-Linksys, LLC; EDTX No. 5:07cv156	EMA 0935-0937
79.	√			October 15, 2007 e-mail from McAndrews to Mathis re: Notice of Filing Complaint re: ESN v. Cisco Systems, Inc. and Cisco-Linksys, LLC; EDTX No. 5:07cv156	EMA 0938-0940
80.	√			October 16, 2007 e-mail from McAndrews to Mathis, et al re: '519 Patent	EMA 0941
81.	√			October 16, 2007 – Patent No. 7,283,519 B2	EMA 0942-0989

Pltf. No.	Admitted	Objection Sustained/ Not Admitted	Exhibit Withdrawn	Description of Exhibit	Bates Label(s)
82.	√			October 16, 2007 e-mail from Albritton to Ward re: whether to file amended complaint attaching patent	EMA 0990
83.	√			October 17, 2007 e-mail from Ward to Albritton re: whether to file amended complaint attaching patent	EMA 0991-0992
90.	√			October 18, 2007 e-mail from Saunders to Albritton re: ESN Convinces EDTX Court Clerk to Alter Documents to Try to Manufacture Subject Matter Jurisdiction Where None Existed	EMA 1035
93.	√			October 16, 2007 – Complaint for Patent Infringement (with Notice of Filing) re: ESN v. Cisco; USDC Texas; No. 5:07-CV-156	EMA 1042-1049
104.			√	October 26, 2007 e-mail from Maroulis to Albritton re: request for extension of time to respond to motion for injunction and complaint	EMA 1152
146.			√	March 14, 2008 email from IP Law360 to Eric Albritton re: IP Law360; Litigation, Policy & People News	EMA 1368-1370
147.	√			March 17, 2008 email from Texas Lawyer to Eric Albritton re: Daily News and Case Alert: March 17, 2008	EMA1373-1375

Pltf. No.	Admitted	Objection Sustained/ Not Admitted	Exhibit Withdrawn	Description of Exhibit	Bates Label(s)
148.		√		March 28, 2008 email from Johnny Ward to Eric Albritton re: Business Week Article	EMA 1376
149.	√			April 7, 2008 Letter to Mark Chandler from George McAndrews	EMA 1386-1395
150.	√			April 11, 2008 Letter to George McAndrews from Charles Babcock	EMA 1403
151.	√			October 15, 2007 email from Amie J. Mathis to newcasetxk@txedcourts.gov re: List of Parties and Civil Coversheet	EMA 1407
153.	√			October 16, 2007 email from Amie J. Mathis to Peter McAndrews re: Complaint	EMA 1409-1411
157.	√			October 17, 2007 email from Amie J. Mathis to Rhonda Lafitte re: Summons for Cisco	EMA 1418-1420
164.	√			March 9, 2008 email from Amie J. Mathis to T. John Ward, Jr. re: Notice of electronic filing	EMA 1435
176.		√		March 3, 2008 file marked copy of Plaintiff's Original Complaint	EMA 1460-1468
179.	√			October 15, 2007 email from Eric Albritton to Amie J. Mathis re: Complaint final	EMA 1491

Pltf. No.	Admitted	Objection Sustained/ Not Admitted	Exhibit Withdrawn	Description of Exhibit	Bates Label(s)
180.	√			October 15, 2007 email from Rhonda Lafitte to Amie J. Mathis re: List of Parties and Civil Coversheet	EMA 1492-1493
181.	√			October 15, 2007 email from Eric Albritton to Amie J. Mathis re: Complaint exhibit b and exhibit c	EMA 1494-1495
182.	√			October 15, 2007 email from Albritton to Amie J. Mathis re: Complaint Exhibit A	EMA 1496-1497
197.	√			October 18, 2007 Notice of Electronic filing Motion for Miscellaneous Relief	EMA 1529-1530
207.	√			ESN LLC v. Cisco Systems, Inc. Docket Report	EMA 1552-1560
208.	√			October 16, 2007 e-mail from paygovadmin@mail.doc.twai.gov confirming payment of filing fee	EMA 1564
209.	√			2007 Transaction log of Eric M. Albritton indicting 10/16/07 filing fees	EMA 1565
212.		√		February 25, 2008 e-mail from akbruster@nixlawfirm to Eric Albritton and T. John Ward, Jr. alerting that the Troll Tracker had identified himself.	EMA 1570
213.	√ with			Legal Pad 12/8/08 Post – Cisco: Troll Tracker Had	EMA 1574 – 1575

Pltf. No.	Admitted	Objection Sustained/ Not Admitted	Exhibit Withdrawn	Description of Exhibit	Bates Label(s)
	ordered redactions			It Right	
214.	√			Original October 18, 2007 blog “ESN Convinces EDTX Court Clerk to Alter Documents to Try to Manufacture Subject Matter Jurisdiction Where None Existed”	EMA 1576
216.	√			Eastern District of Texas Local Rules as of February 12, 2007	EMA 1601 - 1632
217.	√			Federal Rule of Civil Procedure 4	EMA 1633 - 1639
224.	√			Docket of the <i>EchoStar Technologies Corporation v. TiVo Inc., et al</i> ; EDTX No. 5:05cv81 matter	EMA 1671 - 1691
225.		√ (but may be re-offered for impeachment if appropriate)		Motion to Correct Docket MA filing 1:07cv11793 (Ex. 34 to Plaintiff’s Corrected Response to Defendants’ Motion for Summary Judgment)	EMA 1693 - 1702
226.	√			Texas Penal Code (Ex. 37 to Pltf’s Corrected Response to Defendants’ Motion for Summary Judgment)	EMA 1703 - 1704
228.			√	Complaint filed in <i>Cisco Systems, Inc. et al v. Alcatel USA Inc.</i> , EDTX Cause No. 4:03cv176	EMA 01730 - 01786

Pltf. No.	Admitted	Objection Sustained/ Not Admitted	Exhibit Withdrawn	Description of Exhibit	Bates Label(s)
233.	√			Richard Frenkel's Application to Appear Pro Hac Vice in <i>EchoStar Technologies Corporation v. TiVo Inc., et al</i> ; EDTX No. 5:05cv81	EMA 1865 - 1866
237.		√		Electronic Frontier Foundation – Legal Guide for Bloggers	01567 – 01604
238.	√ as limited			United States Securities and Exchange Commission Form 10-Q for the quarterly period ending October 27, 2007	CISCOFIN 001-092
239.	√ as limited			United States Securities and Exchange Commission Form 10-Q for the quarterly period ending January 26, 2008	CISCOFIN 093-193
240.	√ as limited			United States Securities and Exchange Commission Form 10-Q for the quarterly period ending April 26, 2008	CISCOFIN 194-291
241.	√ as limited			United States Securities and Exchange Commission Form 10-Q for the quarterly period ending October 25, 2008	CISCOFIN 292-397

Pltf. No.	Admitted	Objection Sustained/ Not Admitted	Exhibit Withdrawn	Description of Exhibit	Bates Label(s)
242.	√ as redacted			October 22, 2007 e-mail from Kurt Pankratz to Jillian Powell re ESN original complaint	BB_0001-0006 Privileged (HC)
243.		√		October 22, 2007 e-mail from Jillian Powell to Steve Schortgen re conversation with QC Clerk at USDC Tx	BB_0007-0009 Privileged (HC)
244.		√		October 22, 2007 email from Kurt Patkratz to Jillian Powell and Steve Schortgen re Kevin Meek with Johnny Ward at time of call	BB_0010-0012 Privileged (HC)
245.	√			October 17, 2007 e-mail from Rick Frenkel to Beckwith, Yen, Ritter, Michels, Showalter, Pankrazt and Corcoran	BB_0013-0016 Privileged (HC)
246.		√ (but may be re-offered for impeachment if appropriate)		October 18, 2007 e-mail from Pankratz to Frenkel, Showalter, Beckwith, Michels, Yen and Ritter	BB_0017 Privileged (HC)
247.		√ (but may be re-offered for impeachment if appropriate)		October 18, 2007 e-mail from Pankratz to Frenkel, Showalter, Beckwith, Michels, Yen and Ritter	BB_0018 - 0023 Privileged (HC)
248.		√		October 16, 2007 e-mail from Bart Showalter to Frenkel, Pankratz, Beckwith, Ritter and Yen re 154(d)	BB_0024-0026

Pltf. No.	Admitted	Objection Sustained/ Not Admitted	Exhibit Withdrawn	Description of Exhibit	Bates Label(s)
249.	√ as redacted			October 18, 2007 e-mail from Kurt Pankratz to Frenkel, Showalter, Beckwith, Michels, Yen and Ritter re original complaint - version 2	BB_0027-0028
250.	√			October 18, 2007 e-mail from Rick Frenkel to John Noh and Mallun Yen	CISCO.000001
251.	√			Original October 18, 2007 blog "ESN Convinces EDTX Court Clerk to Alter Documents to Try to Manufacture Subject Matter Jurisdiction Where None Existed"	CISCO.000001. 1 - CISCO.000001. 2
254.	√			Complaint for Patent Infringement and Civil Cover Sheet in the matter of <i>ESN v. Cisco Systems, Inc.</i> ; EDTX Cause No. 5:07cv156	CISCO.000165 - CISCO.000239
255.	√			Docket Report for the <i>ESN v. Cisco Systems, Inc.</i> ; EDTX Cause No. 5:07cv156 matter	CISCO.000240 - CISCO.000243
257.	√			EDTexweblog.com Post - "They did WHAT with my filing?"	CISCO.000251 - CISCO.000252
258.	√			August 26, 2007 e-mail from Patent Troll to John Noh and Mallun Yen	CISCO.000253
259.	√			December 11, 2007 e-mail from Rick Frenkel to John Noh	CISCO.000254 - 000258
260.	√			December 10, 2007 e-mail from Rick Frenkel to John Noh	CISCO.000259 - CISCO.000264
261.	√			January 25, 2008 e-mail from Rick Frenkel to Mallun Yen	CISCO.000265 - CISCO.000271

Pltf. No.	Admitted	Objection Sustained/ Not Admitted	Exhibit Withdrawn	Description of Exhibit	Bates Label(s)
266.	√			February 25, 2008 e-mail from Rick Frenkel to Mallun Yen, ip-team	CISCO.000374 – CISCO.000379
267.			√	EDTexweblog.com Post – “Troll Tracker defamation case”	CISCO.00380
268.		√		The Platform Blog Post – “Lessons Learned. . . Cisco Updates Policy on Employee Blogging	CISCO.000382 – CISCO.000386
269.		√		The Platform Blog Post – “Cisco’s Internet Postings Policy”	CISCO.000387 – CISCO.000389
270.	√			March 4, 2008 e-mail from Rick Frenkel to Mallun Yen	CISCO.000390 – CISCO.000391
271.		√		Motion to Correct Docket in the matter of <i>The Hertz Corporation and TSD Rental, LLC v. Enterprise Rent-A-Car Company and The Crawford Group, Inc.</i> ; USDC, District of MA, No. 1:07cv11793	CISCO2.00001 – CISCO2.000131
272.	√			August 26, 2007 e-mail from Patent Troll to John Noh and Mallun Yen	CISCO2.000135
273.	√			October 18, 2007 e-mail from Mallun Yen to Matthew Tanielian	CISCO2.000137
274.	√			Cisco Systems, Inc. Internet Postings Policy (Created March 2007) (Ex. 27 to Mark Chandler Deposition)	CISCO3.000001 – CISCO3.000009
278.				October 17, 2007 e-mail from Rick Frenkel to	Cisco Privileged .000001

Pltf. No.	Admitted	Objection Sustained/ Not Admitted	Exhibit Withdrawn	Description of Exhibit	Bates Label(s)
	√			Beckwith, Yen, Ritter, Michels, Showalter, Panktraz and Corcoran re amended ESN complaint	(HC)
279.		√		October 17, 2007 e-mail from Marta Beckwith to Frenkel, Pankratz, Ritter, Michels and Showalter re lying to patent office	Cisco Privileged .000002– 000003 (HC)
280.		√		October 18, 2007 e-mail from Rick Frenkel to Showalter, Pankratz, Beckwith, Michels, Yen and Ritter re court clerk changed docket to reflect 10/16 filing date	Cisco Privileged .000004 (HC)
281.		√		October 18, 2007 e-mail from Kurt Pankratz to Frenkel, Showalter, Beckwith, Michels, Yen and Ritter re Albritton claims the filing date was an error	Cisco Privileged .000005- .000005.2 (HC)
282.		√		October 18, 2007 e-mail from Kurt Pankratz to Frenkel, Showalter, Beckwith, Michels, Yen and Ritter re complaint with revised banner	Cisco Privileged .000006 (HC)
283.	√ as redacted			October 22, 2007 e-mail from Kurt Pankratz to Powell re ESN original complaint (with 10/15 banner)	Cisco Privileged .000007– 000008 (HC)
284.		√ (but may be re-offered for impeachme nt if appropriate)		October 22, 2007 e-mail from Jillian Powell to Schortgen re QC Clerk at the USDC Tx	Cisco Privileged .000009 (HC)

Pltf. No.	Admitted	Objection Sustained/ Not Admitted	Exhibit Withdrawn	Description of Exhibit	Bates Label(s)
285.		√ (but may be re-offered for impeachment if appropriate)		October 22, 2007 e-mail from Kurt Pankratz to Powell and Schortgen re Kevin Meeks with Johnny Ward when he was making call	Cisco Privileged .000010 (HC)
286.	√ with ordered redactions			October 18, 2008 e-mail from Rick Frenkel to Noh and Yen re lawsuit filed before patent issued	Cisco Privileged .000014– 000016 (HC)
287.	√ with ordered redactions			October 15, 2007 e-mail from Rick Frenkel to Pankratz, Showalter, Beckwith, Ritter and Yen re Complaint just put online	Cisco Privileged .000019– 000026 (HC)
288.	Second page of 288 is admitted as 288A			October 15, 2007 e-mail from Rick Frenkel to Yen, Beckwith, Ritter and Michels re we were just sued by ESN, LLC	Cisco Privileged .000027– 000028 (HC)
289.	√			October 22, 2007 e-mail from Marta Beckwith to Reines, Powers, Maroulis, et al re in case you haven't seen this about your DJ case in ESN	Cisco Privileged .000037– 000041 (HC)
291.	√			October 27, 2007 e-mail from Bart Showalter to Beckwith re Michael in cahoots with Johnny and Eric and was asked to post	Cisco Privileged .000044– 000048.3 (HC)
292.	√			February 25, 2008 e-mail from Marta Beckwith to Bhavsar re Rick still handling his responsibilities at Cisco	Cisco Privileged .000087 (HC)

Pltf. No.	Admitted	Objection Sustained/ Not Admitted	Exhibit Withdrawn	Description of Exhibit	Bates Label(s)
294.	√			November 25, 2007 e-mail from Marta Beckwith to Chambers re EDTx amending local rules	Cisco Privileged .000094 (HC)
295.		√		October 18, 2007 e-mail from Marta Beckwith to Yen, Ritter and Frenkel re ask Tony for docs and who is best local counsel for Texarkana	Cisco Privileged .000103– 000105.1 (HC)
296.		√		February 25, 2008 e-mail from Mark Chandler to Yen re ESN and blog	Cisco Privileged .000109– 000111 (HC)
297.		√		February 25, 2008 e-mail from Mark Chandler to Yen re wasn't on this thread	Cisco Privileged .000112– 000115 (HC)
298.	√ with ordered redactions			February 25, 2008 e-mail from Mallun Yen to Chandler re closest we came to talking about a topic before it was actually posted	Cisco Privileged .000116– 000118.1 (HC)
299.	√ with ordered redactions			February 25, 2008 e-mail from Mallun Yen to Chandler re want you to be aware of the full facts	Cisco Privileged .000122– 000125.1 (HC)
300.	√ with ordered redactions			October 18, 2007 e-mail from Mark Chandler to Tanielian re Yen calling Dan Webb	Cisco Privileged .000126 (HC)
301.	√			October 17, 2007 e-mail from John Corcoran to Frenkel re having way too much fun	Cisco Privileged .000134– 000135.1 (HC)

Pltf. No.	Admitted	Objection Sustained/ Not Admitted	Exhibit Withdrawn	Description of Exhibit	Bates Label(s)
302.	√			October 17, 2007 e-mail from Rick Frenkel to Corcoran re trolls are driving me batty	Cisco Privileged .000136–00137 (HC)
303.	√			October 19, 2007 e-mail from Rick Frenkel to Tanielian re fair comparison of patent litigation statistics	Cisco Privileged .000138– 000140 (HC)
304.	√			February 25, 2008 e-mail from Mallun Yen to Frenkel re content of post was all Frenkel	Cisco Privileged .000141– 000144.1 (HC)
305.	√			February 25, 2008 e-mail from Rick Frenkel to Yen re content of post all mine	Cisco Privileged .000146– 000149 (HC)
306.	√			October 19, 2007 e-mail from Matthew Tanielian to Frenkel and Chandler re fair comparison of patent litigation statistics	Cisco Privileged .000154– 000156.1 (HC)
307.		√ (but may be re-offered for impeachment if appropriate)		October 18, 2007 e-mail from Mallun Yen to Frenkel, Pankratz, et al re this happened in Enterprise case	Cisco Privileged .000167- 000168.1 (HC)
308.	√ with ordered redactions			October 18, 2007 e-mail from Pankratz to Frenkel, Pankratz, et al re new version of complaint with revised banner showing 10/16	Cisco Privileged .000169- .000169.3 (HC)
309.		√		October 18, 2007 e-mail from Michael Ritter to Yen, Beckwith, et al re should talk to local counsel in EDTx to get their views	Cisco Privileged .000192– 000194 (HC)

Pltf. No.	Admitted	Objection Sustained/ Not Admitted	Exhibit Withdrawn	Description of Exhibit	Bates Label(s)
310.			√	October 17, 2007 e-mail from Gail Zahner to Pankratz, Beckwith, et al re papers served on ESN LLC	Cisco Privileged .000204- .000204.2 (HC)
311.		√		October 18, 2007 e-mail from Marta Beckwith to Yen, Ritter, et al re motion to correct docket	Cisco Privileged .000212- .000212.1 (HC)
312.	√ with ordered redactions			October 19, 2007 e-mail from Rich Renfree to Michels, Kubehl, et al re ESN's amended complaint	Cisco Privileged .000227- .000228.1 (HC)
313.		√		November 1, 2007 e-mail from Michael Ritter to Maroulis re response to ESN's motion	Cisco Privileged .000231- .000233 (HC)
314.		√		October 18, 2007 e-mail from Marta Beckwith to Yen, Frenkel, et al re Enterprise case hearing where judge expressed significant doubt as to Goodwin's position and they anticipate losing	Cisco Privileged .000234- .000237.1 (HC)
315.		√		October 18, 2007 e-mail from Mallun Yen to Beckwith, Frenkel, et al re Enterprise case	Cisco Privileged .000250- 000251 (HC)
318.	√ with redactions			October 18, 2007 e-mail from Mallun Yen to Chandler and Noh re clerk changed the docket and all documents to reflect 10/16	Cisco Privileged .000256 (HC)
319.		√		October 18, 2007 e-mail from Rick Frenkel to Beckwith, Yen, et al re	Cisco Privileged .000257- 000260.1

Pltf. No.	Admitted	Objection Sustained/ Not Admitted	Exhibit Withdrawn	Description of Exhibit	Bates Label(s)
				Hertz_Enterprise_Mistake Motion	(HC)
320.	√			October 17, 2007 e-mail from Kurt Pankratz to Frenkel, Beckwith, et al re ESN amended complaint and patent trademark form	Cisco Privileged .000261- .000261.3 (HC)
321.	√ with redactions			October 18, 2007 e-mail from Mallun Yen to Chandler, Tanielian, et al re court clerk persuaded to change filing date	Cisco Privileged .000264- 000265 (HC)
322.		√		October 18, 2007 e-mail from Mallun Yen to Frenkel, Beckwith, et al re Enterprise case more of making the other side jump through hoops and spend money	Cisco Privileged .000269- 000272 (HC)
323.			√	October 16, 2007 e-mail from Bart Showalter to Frenkel, Pankratz, et al re 154(d), filing complaint before patent issues	Cisco Privileged .000276- 000277.3 (HC)
324.		√		October 18, 2007 e-mail from Mallun Yen to Beckwith, Frenkel, et al re Enterprise may not oppose on these grounds	Cisco Privileged .000278- 000281 (HC)
325.	√			October 18, 2007 e-mail from Mallun Yen to Noh re new version of complaint with revised banner	Cisco Privileged .000287 (HC)
326.	√			October 17, 2007 e-mail from Mallun Yen to Noh re amended complaint	Cisco Privileged .000324 (HC)
327.				October 18, 2007 e-mail from Rick Frenkel to Yen,	Cisco Privileged .000327-

Pltf. No.	Admitted	Objection Sustained/ Not Admitted	Exhibit Withdrawn	Description of Exhibit	Bates Label(s)
		√		Beckwith, et al re if venue reform passes, the case shall be transferred out of Texas anyway	000331 (HC)
327a. a. 3	√			October 19, 2007- Email to Rick Frenkel from Michael Smith re: Patent wins at trial stats	FRENKEL.000 003- FRENKEL.000 004
328.	√			October 19, 2007- Blog posted Michael Smith re: Eastern District of Texas Federal Court Practice, They did WHAT with my filing?	FRENKEL.000 007- FRENKEL.000 008
329.			√	Graph stating visits and page visits from Mar07-Mar08 to Trolltracker	FRENKEL.000 009
330.	√			October 19, 2007- Email to Rick Frenkel and Dennis Crouch from Michael Barclay re: Docket alteration in ESN v. Cisco	FRENKEL.000 0010
333.	√			October 18, 2007- Email to Rick Frenkel from Michael Barclay re: Docket alteration in ESN v. Cisco	FRENKEL.000 0040
334.			√	Google Search – Eric Albritton	FRENKEL.000 0050 – FRENKEL.000 0052
335.	√			Revised October 18, 2007 Post	FRENKEL.000 0053- FRENKEL.000 0054
336.	√			February 23, 2008- Patent Troll Tracker: Blogger Revealed	FRENKEL.000 0062- FRENKEL.000 0064

Pltf. No.	Admitted	Objection Sustained/ Not Admitted	Exhibit Withdrawn	Description of Exhibit	Bates Label(s)
337.	√			October 19, 2007 e-mail from Patent Troll to Michael Smith	FRENKEL2.00 0004
338.	√			October 19, 2007- Email to Rick Frenkel from Michael Smith re: Patent win at trial stats	FRENKEL2.00 0005- FRENKEL2.00 0006
343.			√	October 13, 2008 (sitemeter) Troll Tracker- Last Year's Visits by Month	FRENKEL2.00 0059
344.			√	October 13, 2008 (sitemeter) Troll Tracker- Last Year's Visits and Page Views by Month	FRENKEL2.00 0061
345.	√			February 19, 2008 Patent Troll Tracker Blog Post	FRENKEL2.00 0077- FRENKEL2.00 0078
346.	√			February 13, 2008 Patent Troll Tracker Blog Post.	FRENKEL2.00 0091- FRENKEL2.00 0092
348.	√			January 30, 2008 Patent Troll Tracker Blog Post	FRENKEL2.00 0116
349.	√			Patent Troll Tracker Blog Post	FRENKEL2.00 0120
350.	√			January 22, 2008 Patent Troll Tracker Blog Post	FRENKEL2.00 0134- FRENKEL2.00 0135
353.	√			Patent Troll Tracker Blog Post	FRENKEL2.00 0225

Pltf. No.	Admitted	Objection Sustained/ Not Admitted	Exhibit Withdrawn	Description of Exhibit	Bates Label(s)
354.	√			Troll Tracker Blog Post	FRENKEL2.00 0254
355.	√			Troll Tracker Blog Post	FRENKEL2.00 0259
356.	√			Saturday, October 20, 2007 Troll Tracker Blog Post	FRENKEL2.00 0282
357.	√			Thursday, October 18, 2007 Troll Tracker Blog Post	FRENKEL2.00 0286- FRENKEL2.00 0287
358.	√			Wednesday, October 17, 2007 Troll Tracker Blog Post	FRENKEL2.00 0287- FRENKEL2.00 0288
362.	√			Troll Tracker Blog Post	FRENKEL2.00 0320
364.	√			Troll Tracker Blog Post	FRENKEL2.00 0354
365.	√			Troll Tracker Blog Post	FRENKEL2.00 0370
368.	√			March 11, 2008—Article on Legal Pad “Cisco: Nothin’ to Say. Except, Don’t Blame Us.	JW.000065
369.	√			March 11, 2008- Article on Forbes.com “ Shut up Already!”	JW.000066- 000068
370.	√			trolltracker.blogspot.com invitation page from website	JW.000234
371.	√			Electronic Case Files CM/ECF User Manual	JW2.000001- JW2.000058

Pltf. No.	Admitted	Objection Sustained/ Not Admitted	Exhibit Withdrawn	Description of Exhibit	Bates Label(s)
				Eastern District of Texas	
395.	√			Ex 2 (E-mail to Mallun Yen, et al., from Rich Fenner, dated October 15, 2007, Cisco Privileged 000027, 1 page) to Marta Beckwith's November 19, 2008 deposition	Cisco Privileged .000027 (HC)
404.	√			Ex 4 (Federal Rules of Civil Procedure Commencement of Action; 1 page) to Mark Chandler's November 18, 2008 deposition	EMA 1880
406.	√			Ex 6 (BusinessWeek article "Busting a Rogue Blogger"; 2 pages) to Mark Chandler's November 18, 2008 deposition	EMA 1881 - 1882
431.	√			Ex 85 (E-mails, 10/15/07, Amie J. Mathis and Rhonda Lafitte, attached List of Parties and Civil Cover Sheet) to David Maland's November 3, 2008 deposition	EMA 1951 - 1954
432.	√			Ex 87 (Pages 3 – 11) (E-mail, 3/14/2007 From David Maland to Ann McMillan, Brenda Jeffreys, et al. 3 attachments) to David Maland's November 3, 2008 deposition	EMA 2171 - 2179
433.	√			Ex 96 (How to Electronically File a New Case in effect 10/07) to David Maland's November 3, 2008	EMA 2180 - 2182

Pltf. No.	Admitted	Objection Sustained/ Not Admitted	Exhibit Withdrawn	Description of Exhibit	Bates Label(s)
				deposition	
434.	√			Ex 98 (Pay.gov receipt 10/16/2007) to David Maland's November 3, 2008 deposition	EMA 1955 – 1956
435.	√			Ex 101 (Local Rule CV-5 (a) (3) Significance of Electronic Filing) to David Maland's November 3, 2008 deposition	EMA 1957 - 1958
436.	√			Ex 102 (System Transactions Log 10/1/2008' Fed.R.Civ.P 5(d) (2) (A) CM/ECF User Manual on TXED website pages 22-23; How to Electronically File a New Case as of 10/07) to David Maland's November 3, 2008 deposition	EMA 1959 - 1969
437.		√		Ex 103 (General Order 07/9 entered 11/19/2007) to David Maland's November 3, 2008 deposition	EMA 1970 - 2028
440.	√			Ex 106 (Fed.R.Civ.P 5(d) (2) (A) to David Maland's November 3, 2008 deposition	EMA 2183 - 2185
441.		√		Ex 107 (E-mail, 10/15/2007, from David Maland to Donna Blair, Linda Byrd, et al.) to David Maland's November 3, 2008 deposition	EMA 2085 - 2128
442.				Ex 108 (Photographs, after hours depository) to	EMA 2129

Pltf. No.	Admitted	Objection Sustained/ Not Admitted	Exhibit Withdrawn	Description of Exhibit	Bates Label(s)
		√		David Maland's November 3, 2008 deposition	
443.		√		Ex 109 (Model Local District Court Rules for Electronic Case Filing in Civil Cases Judicial Conference of the United States September 2006) to David Maland's November 3, 2008 deposition	EMA 2130 - 2147
444.	√			Ex 110 (CM/ECF User Manual on TXED website Pages 22-23) to David Maland's November 3, 2008 deposition	EMA 2148 - 2149
450.	√			Ex 29 (E-mail, 10/17/2007, from Amie Mathis to Eric M. Albritton) to David Maland's November 3, 2008 deposition (previously marked exhibit)	EMA 1005
473.	√ with ordered redaction			Ex 1 (Law.com article "Troll Tracker tracked to Cisco IP Team; 2 pages) to John Noh's November 17, 2008 deposition	EMA 2161 - 2162
474.	√ with ordered redaction			Ex 2 (IPBIZ article "WSJ on Troll Tracker Frenkel"; 3 pages) to John Noh's November 17, 2008 deposition	EMA 2163 - 2165

Pltf. No.	Admitted	Objection Sustained/ Not Admitted	Exhibit Withdrawn	Description of Exhibit	Bates Label(s)
477.		√ (Plaintiff may re-offer if he can connect company's statement to company representative)		Ex 5 (The Prior Art article "Troll Tracker lays low"; 3 pages) to John Noh's November 17, 2008 deposition	EMA – 2186 - 2188
482.			√	Ex 10 (Media Relations Contacts-News @ Cisco; 4 pages) to John Noh's November 17, 2008 deposition	EMA 2195 - 2198
528.		√		Ex 6 (LEXSTAT 18 USCS 1512; 3 pages) to Mallun Yen's November 17, 2008 deposition	EMA 2386 - 2388
534.	√ with stipulated redactions			Ex 12 (Email thread dated 3/4/08 from Rick Frenkel "Subject: FW": Nos. CISCO 000390-91) to Mallun Yen's November 17, 2008 deposition	CISCO 000390-91

As to those Exhibits Plaintiff May Offer at Trial, and as stated fully on the record at the hearing, the Court rules as follows:

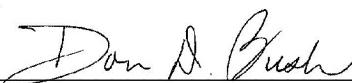
Pltf. No.	Admitted	Objection Sustained/ Not Admitted	Exhibit Withdrawn	Description of Exhibit	Bates Label(s)
210.	√			December 5, 2006 Correspondence from Robert M. Parker to Eric Albritton acknowledging Eric's contribution for the Law School Foundation set up in Robert Parker's name and praising Eric in general	EMA 1566
215.		√		Expert Report of Professor Charles Silver	EMA 1577 - 1600
230.		√		Cover letter, Summons and Complaint – <i>Advanced Scientific Applications, Inc. v. Cisco Systems, Inc.</i> , OCSC Case No. 30- 2008-00111935	EMA 1795 - 1824
231.		√		Summons and Complaint – <i>Anoop Rajkumar v. Cisco Systems, Inc.</i> , USDC, Northern District of California No. C:08 01600	EMA 1825 - 1845
232.		√		Summons and Complaint – <i>Twelve Inches Around Corp. v. Cisco Systems, Inc., et al</i> ; USDC Southern District of New York, No. 08cv6896	EMA 1846 - 1864
237.		√		Electronic Frontier Foundation – Legal Guide for Bloggers	01567 – 01604

Pltf. No.	Admitted	Objection Sustained/ Not Admitted	Exhibit Withdrawn	Description of Exhibit	Bates Label(s)
478.			√	Ex 6 (ADNet Government article "Intel.Cisco. HP tackle patent reform": 1 page) to John Noh's November 17, 2008 deposition	EMA 2189
479.			√	Ex 7 (CNET News article "Tech Firms to lobby for Patent Litigation Reform"; 2 pages) to John Noh's November 17, 2008 deposition	EMA 2190 - 2191
480.			√	Ex 8 (Coalition for Patent Fairness Who We Are; 2 pages) to John Noh's November 17, 2008 deposition	EMA 2192 - 2193
481.			√	Ex 9 (Article "Cisco spent \$300,000 in Q2 lobby gov't on patent reform and other efforts:"; 1 page) to John Noh's November 17, 2008 deposition	EMA 2194

The parties are expected to act in good faith with regard to the Court's specific rulings as to redacted or limited use of exhibits as set forth fully on the record at the September 1, 2009 pretrial conference.

SO ORDERED.

SIGNED this 4th day of September, 2009.


 DON D. BUSH
 UNITED STATES MAGISTRATE JUDGE