

AO88 (Rev. 1/94) Subpoena in a Civil Case

Issued by the
UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT DISTRICT OF TEXAS

Eric M. Albritton

SUBPOENA IN A CIVIL CASE

V.
 (1) Cisco Systems, Inc., (2) Richard Frenkel, (3) Mallen Yen and (4) John Noh

Case Number:¹ H08-MC-429

TO: BAKER BOTTS, LLP
 One Shell Plaza
 910 Louisiana Street
 Houston, Texas 77002-4995

YOU ARE COMMANDED to appear in the United States District court at the place, date, and time specified below testify in the above case.

| | |
|--------------------|---------------|
| PLACE OF TESTIMONY | COURTROOM |
| | DATE AND TIME |

YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

| | |
|---------------------|---------------|
| PLACE OF DEPOSITION | DATE AND TIME |
|---------------------|---------------|

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

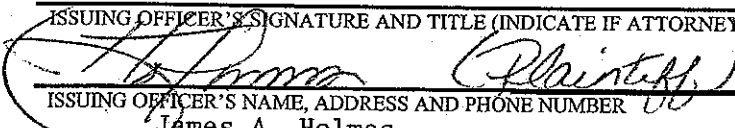
See Exhibit A.

| | | | |
|-------|-------------------------------------------------------------------------------------|---------------|---------|
| PLACE | The Law Office of James A. Holmes 605 S. Main, Suite 203, Henderson, Texas 75654 | DATE AND TIME | 10-5-08 |
|-------|-------------------------------------------------------------------------------------|---------------|---------|

YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

| | |
|----------|---------------|
| PREMISES | DATE AND TIME |
|----------|---------------|

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

| | |
|-----------------------------------------------------------------------------------------------|---------|
| ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT) | DATE |
|  Plaintiff | 8/21/08 |

| |
|---------------------------------------------------------------------------------------|
| ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER |
| James A. Holmes 605 S. Main, Suite 203 Henderson, Texas 75654 (903) 657-2800 |

(See Rule 45, Federal Rules of Civil Procedure, Parts C & D on next page)

¹ If action is pending in district other than district of issuance, state district under case number.

PROOF OF SERVICE

DATE PLACE

SERVED

SERVED ON (PRINT NAME) MANNER OF SERVICE

SERVED BY (PRINT NAME) TITLE

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____
DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

DEFINITIONS & INSTRUCTIONS

1. "YOU", "YOUR" or "YOURS" refers to Baker Botts, LLP ("BAKER BOTTS"), including, without limitation, all of its locations and all predecessors, subsidiaries, parents & affiliates and all past or present directors, officers, partners, associates, employees, staff members, agents, representatives, consultants, attorneys, and entities acting in joint-venture, affiliation, partnership or business relationship with BAKER BOTTS and others acting on behalf of BAKER BOTTS.
2. The term "DOCUMENT" is used herein in this broadest sense under the Federal Rules of Civil Procedure and applicable case law and includes all tangible things, all originals (or, if originals are not available, identical copies thereof), archives, all non-identical copies of all documents, all drafts of final documents, all other written, printed, or recorded matter of any kind and all other data compilations from which information can be obtained that are or have been in your actual or constructive possession or control, regardless of the medium on which they are produced, reproduced or stored (including with limitation computer programs and files containing any requested information), and any recording or writing as these terms are defined in Rule 1001 of the Federal Rules of Evidence. Any document bearing marks, including without limitation initials, stamped initials, comments, or notations not part of the original text or photographic reproduction thereof is a separate document.
3. The terms "REFER" or "RELATE" or any variant thereof include, but are not limited to, the following meanings: pertaining to, analyzing, assessing, compromising, concerning, containing, constituting, discussing establishing, mentioning, containing, evidencing, describing, displaying, showing, identifying, including, recording, reflecting, stating,



proving, disproving, consisting of, supporting, contradicting, in any way legally, logically, or factually connected with the matters referenced, or having tendency to prove or disapprove any matter referenced.

4. The term "COMMUNICATION" or any variant thereof means any contact between or among two or more persons and shall include, without limitation, written contact by means such as letters, memoranda, telegrams, telecopies, telexes, e-mail or any other document; and any writings memorializing any oral contact such as face to face meetings or telephone conversations.
5. The term "THE BLOGS" shall mean the internet message boards and blog sites found at www.trolltracker.blogspot.com (a/k/a the "TrollTracker") and www.patentlyo.com (a/k/a "Patently O)."

DOCUMENTS REQUESTED

1. All DOCUMENTS REFERRING or RELATING to COMMUNICATIONS between YOU and (1) RICHARD FRENKEL a/k/a "The TrollTracker," (2) DENNIS CROUCH, (3) MALLUN YEN, (4) JOHN NOH, (5) Mark Chandler, (6) CISCO SYSTEMS, INC., or (7) THE BLOGS regarding (1) the integrity, reputation or ability of ERIC M. ALBRITTON; (2) the filing of Civil Action No. 5:07-CV-00156, styled *ESN, LLC v. Cisco Systems, Inc.*, in the United States District Court for the Eastern District of Texas; or (3) the October 16-17, 2007 postings on www.trolltracker.blogspot.com.
2. All DOCUMENTS REFERRING or RELATING to comments, emails, COMMUNICATIONS or responses to THE BLOGS regarding (1) the integrity, reputation or ability of ERIC M. ALBRITTON; (2) the filing of Civil Action No. 5:07-CV-00156, styled *ESN, LLC v. Cisco Systems, Inc.*, in the United States District Court for the Eastern District of Texas; or (3) the October 16-17, 2007 postings on www.trolltracker.blogspot.com.
3. All DOCUMENTS REFERRING or RELATING to YOUR participation in the establishment, creation, maintenance or financial support of THE BLOGS.