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FOR A FULL LISTING OF ALL PARTIES AND  
THEIR ATTORNEYS

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

MULTIVEN, INC.,  
a Delaware corporation,

Plaintiff,

v.

CISCO SYSTEMS, INC.,  
a California corporation,

Defendant.

CISCO SYSTEMS, INC.,  
a California corporation, CISCO  
TECHNOLOGY, INC., a California  
corporation,

Counterclaimants,

v.

MULTIVEN, INC. a Delaware  
corporation; PINGSTA, INC.,  
a Delaware corporation; and  
PETER ALFRED ADEKEYE,  
an individual,

Counterdefendants

CASE NO. C 08-05391 JW (HRL)  
*Assigned to Honorable James Ware*

**DISCOVERY**

**MOTION TO SHORTEN TIME FOR  
DEFENDANT AND  
COUNTERCLAIMANT CISCO SYSTEMS,  
INC.'S AND COUNTERCLAIMANT  
CISCO TECHNOLOGY, INC.'S  
RESPONSE TO THE MAY 25, 2010  
REQUESTS FOR THE PRODUCTION OF  
DOCUMENTS**

## INTRODUCTION

Pursuant to Northern District of California Local Rule 6-3 and Federal Rule of Civil Procedure 34(b)(2)(A), Plaintiff and Counterdefendant Multiven, Inc. ("Multiven"), Counterdefendant Pingsta, Inc. ("Pingsta"), and Counterdefendant Peter Alfred-Adekeye ("Mr. Adekeye") respectfully request an order that Defendant and Counterclaimant Cisco Systems, Inc. and Counterclaimant Cisco Technology, Inc. (together "Cisco") respond to Plaintiff and Counterdefendants' May 25, 2010 Requests for the Production of Documents (the "Request")<sup>1</sup> (attached hereto as **Exhibit A**) within two (2) days of the Court's ruling on this Motion.

Mr. Adekeye, CEO of Multiven and a counterdefendant in his individual capacity, currently sits in Canadian jail, having been arrested on May 20, 2010, in the middle of giving a deposition in this civil action in Vancouver, Canada pursuant to this Court's Order dated March 24, 2010. *See* Declaration of Thomas M. O'Leary ("O'Leary Decl.") ¶¶ 2-3. The warrant, pursuant to which the Royal Canadian Mounted Police interrupted Mr. Adekeye's deposition and arrested him, describes the same conduct as that alleged by Cisco's counterclaims. *Id.* at ¶ 5. Given the overlap of Cisco's civil claims and the allegations supporting the arrest warrant, as well as the timing and location of Mr. Adekeye's arrest, it is highly likely that Cisco or its agents sought the criminal charges and arrest of Mr. Adekeye at his deposition. Any such evidence would be crucial to Mr. Adekeye's defense against extradition from Canada and the criminal charges underlying his arrest there. It is also relevant to the pending antitrust claims and additional potential claims against Cisco, given that Cisco's apparent involvement in Mr. Adekeye's arrest is an effort to deny him of his Constitutional rights and to intimidate Multiven

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<sup>1</sup> Six requests for the production of documents were served on May 25, 2010 (one from each of Multiven, Pingsta, and Mr. Adekeye to each of Cisco Systems, Inc. and Cisco Technology, Inc.), but each such request was comprised of one identical document request. Exhibit A, Multiven's request to Cisco Systems, Inc., is provided as an example of these requests.

1 from pursuing its antitrust claims against Cisco's illegal practices. Therefore, Multiven seeks the  
 2 Court's assistance in obtaining Cisco's responses in an expedited manner.

3 **TIME SHOULD BE SHORTENED FOR CISCO'S RESPONSE**

4 Simply put, every day that Cisco waits to respond to the Request is an extra day that Mr.  
 5 Adekeye is unable to defend himself fully from criminal charges and from extradition. Federal  
 6 Rule of Civil Procedure 34(b)(2)(A) allows the Court to order a shortened time for Cisco to  
 7 respond to the Request. The Court may shorten time where the moving party identifies a  
 8 substantial harm that would occur absent shortening time. N.D. Cal. Civ. Local Rule 6-3(a)(3).  
 9 The Court should exercise this power in this instance because there is good cause to do so and no  
 10 harm or prejudice will befall Cisco. *See Coleman v. Schwarzenegger*, Nos. Civ S-90-0520 (LKK)  
 11 (JFM), Civ-01-1351 (THE), 2007 WL 3231706 (E.D. Cal. Oct. 30, 2007) (shortening time for  
 12 response to already-served discovery requests on finding of good cause).  
 13

14 Good cause exists to shorten Cisco's time to respond to the Request. The information  
 15 sought by the Request is essential to Mr. Adekeye's personal defense against criminal charges,  
 16 extradition, and whether Cisco is engaged in the ultimate exclusionary act — imprisonment of an  
 17 admitted competitor. O'Leary Decl. ¶ 7. As the Court is aware, Mr. Adekeye is a British citizen  
 18 residing in Switzerland. Therefore, in order to face United States criminal charges after his arrest  
 19 in Canada, Mr. Adekeye would have to be extradited to the United States. The Request seeks  
 20 information relevant to an extradition defense, including information regarding whether a civil  
 21 litigation has been manipulated to procure Mr. Adekeye's arrest. Mr. Adekeye must have this  
 22 information to defend himself fully, and, as he sits in Canadian jail at the moment, he must have it  
 23 on the most expedited schedule possible. *Cf. Noble v. Kiewit Pacific Co.*, No Civ-08-00666 (SI),  
 24 2008 WL 413754 (N.D. Cal. Feb. 13, 2008) (finding good cause to order deposition of plaintiff  
 25 within one week because of plaintiff's terminal cancer and bleak prognosis). Waiting 30 days, as  
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1 is the default timeframe for Cisco's response under Fed. R. Civ. P. 34(b)(2)(A), would constitute  
2 substantial harm to Mr. Adekeye.

3 No harm will come to Cisco in responding to the Request in an expedited manner. The  
4 Request seeks all communications between Cisco or its agents and government agencies, which  
5 are relevant to Mr. Adekeye's arrest.<sup>2</sup> This is a limited set of communications. Compiling these  
6 communications for production should not be a particularly difficult or time consuming task.  
7 Additionally, because the Request seeks communications between Cisco (including the  
8 company's attorneys and its employees) and unrelated government agencies, no communication  
9 subject to the Request could be subject to any privilege; therefore, Cisco will not need to  
10 undertake any privilege review. Cisco can easily respond to this request within the timeframe  
11 requested herein, and to the extent they would claim any harm or prejudice in doing so, it could  
12 not compare to the harm and prejudice realized by Mr. Adekeye as he sits in Canadian jail. This  
13 Court should order Cisco respond to the Request within two days of deciding this Motion.  
14

15 DATED: May 24, 2010

Respectfully submitted,

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25 MAXWELL M. BLECHER [SBN 26202]

26  
27 <sup>2</sup> In the interest of brevity, the full language of the Requests is not restated here. However, this description  
28 is substantively accurate to the Requests. In no way is this description meant to limit or otherwise alter the  
Requests as presented. For the full language of the Requests, see Exhibit A, which is Multiven Inc's  
request on Cisco Systems, Inc. — the other

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25 Attorneys for Counterdefendants MULTIVEN,  
26 INC., PINGSTA, INC., and PETER ALFRED-  
27 ADEKEYE

28 I, Thomas M. O'Leary, hereby attest, pursuant to N.D. Cal. General Order No. 45, that the  
concurrence to the filing of this document has been obtained from each signatory hereto.

/s/ Thomas M. O'Leary  
Thomas M. O'Leary

Exhibit A to the Motion to Shorten Time for  
Defendant and Counterclaimant Cisco Systems,  
Inc.'s and Counterclaimant Cisco Technology,  
Inc.'s Response to the May 25, 2010 Requests  
for the Production of Documents

Plaintiff and Counterdefendant Multiven, Inc.'s  
Request for the Production of Documents  
Served on Cisco Systems, Inc. on May 25, 2010

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

MULTIVEN INC.,  
a Delaware corporation,

Plaintiff,

-against-

CISCO SYSTEMS, INC.,  
a California corporation,

Defendant.

CISCO SYSTEMS, INC., a California corporation, and  
CISCO TECHNOLOGY, INC., a California  
corporation,

Counterclaimants,

CASE No.: C 08-05391 JW-RS

Hon. James Ware

**PLAINTIFF AND  
COUNTERDEFENDANT  
MULTIVEN INC.'S SECOND  
REQUEST FOR PRODUCTION  
OF DOCUMENTS TO  
DEFENDANT AND  
COUNTERCLAIMANT CISCO  
SYSTEMS, INC.**

-against-

MULTIVEN INC., a Delaware corporation, PINGSTA, INC., a Delaware Corporation, and PETER ALFRED ADEKEYE,

Counterdefendants.

REQUESTING PARTY: MULTIVEN, INC.

RESPONDING PARTY: CISCO SYSTEMS, INC.

SET NUMBER: TWO (2)

Pursuant to Rule 34 of Federal Rules of Civil Procedure, Plaintiff and Counterdefendant Multiven, Inc. hereby serves this Second Request for Production of Documents (the "Requests") to Defendant and Counterclaimant Cisco Systems, Inc. to be answered fully, in writing, and under oath, and in a timeframe in compliance with Rule 34 of the Federal Rules of Civil Procedure, no later than thirty (30) days after service of these Requests unless such timeframe is modified by the Court. All objections, responses, and responsive documents shall be served and/or produced to Ropers Majeski Kohn Bently, c/o Thomas O'Leary, 515 South Flower Street, Suite 1100, Los Angeles, CA 90017 and Cadwalader, Wickersham & Taft, c/o Joseph Bial, 700 Sixth Street, N.W., Washington, DC 20001.

#### DEFINITIONS

As used herein, the following terms are defined as indicated:

1. "YOU" and "YOUR" as used herein means Defendant and Counterclaimant Cisco Systems, Inc. and any person acting on its behalf or at its direction.
2. "MULTIVEN" means Plaintiff and Counterdefendant Multiven, Inc.
3. "ADEKEYE" means Counterdefendant Peter Alfred-Adekeye.



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1 employees, or any of YOUR agents, and, on the other hand, any U.S. federal, state, or foreign  
 2 government agency, or any employee of any U.S. federal, state, or foreign governmental agency  
 3 regarding any claim, defense, fact, circumstance, or allegation included, referenced in, or relating  
 4 to the ACTION, as well as a certification that all such documents in YOUR possession, custody,  
 5 or control have been produced in response to this request.  
 6

7  
 8 DATED: May 24, 2010

ROPERS MAJESKI KOHN BENTLEY

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 10 By: /s/ Brian C. Vanderhoof

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