

# EXHIBIT D

**FILED**  
GREGG COUNTY, TEXAS

MAR 14 2008

CAUSE NO. 2008-481-CCL2

O'CLOCK M  
BARBARA DUNCAN, DISTRICT CLERK  
By \_\_\_\_\_ Deputy

ERIC M. ALBRITTON,

Plaintiff,

V.

CISCO SYSTEMS, INC. &  
RICHARD FRENKEL,

Defendant

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COUNTY COURT AT LAW

NUMBER 2

GREGG COUNTY, TEXAS

**DEFENDANT CISCO SYSTEMS, INC.'S  
ORIGINAL ANSWER**

TO THE HONORABLE COURT:

NOW COMES Cisco Systems, Inc. ("Cisco") and files its Original Answer to Plaintiff's Original Petition as follows:

**I.  
GENERAL DENIAL**

1. Defendant generally denies each and every substantive allegation in Plaintiff's Amended Petition and demands strict proof thereof as required by law.

**II.  
AFFIRMATIVE DEFENSES**

2. For further answer, if necessary, the statements complained of as they relate to Plaintiff are true or substantially true.

3. For further answer, if necessary, the statements complained of by Plaintiff were invited by Plaintiff.

4. For further answer, if necessary, the statements complained of are privileged pursuant to § 73.002 of the Texas Civil Practice & Remedies Code.

5. For further answer, if necessary, any award of damages in this case for the claims alleged would be unconstitutional under Article 1, § 8 of the Texas Constitution and/or the First Amendment to the United States Constitution.

6. For further answer, if necessary, Plaintiff has not suffered any actual, special, consequential or other damages.

7. For further answer, if necessary, Defendants allege that Plaintiff is not entitled to punitive or exemplary damages under the laws of the United States and Texas because: (i) Plaintiff's cause of action is pursuant to statute — § 73.001 et. seq. of the Texas Civil Practices and Remedies Code—and punitive damages are impermissible for the mere violation of a statute. Punitive damages are not warranted and their imposition in this case would violate Article 1, § 8 of the Texas Constitution and/or the First Amendment to the United States Constitution. Moreover, any punitive damages award (and none is warranted) would be subject to all statutory, constitutional, and common law caps and limits, including but not limited to the statutory cap on punitive damages contained in Texas Civil. Practices & Remedies Code § 41.008(b).

WHEREFORE, PREMISES CONSIDERED, Defendant Cisco prays that judgment be entered in its favor, that Plaintiff take nothing by way of his action herein, that Defendant Cisco be awarded its costs of action, and for such other and further relief, both at law and in equity, to which Defendant Cisco may be entitled.

Respectfully submitted,

JACKSON WALKER L.L.P.

By: Charles L. Babcock *w/ permission by Crystal J. Parker*  
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ATTORNEYS FOR DEFENDANT  
CISCO SYSTEMS, INC.

**CERTIFICATE OF SERVICE**

This is to certify that on this 14~~th~~ day of March, 2008, a true and correct copy of the foregoing document was served via certified mail, return receipt requested upon:

James A. Holmes  
605 South Main Street, Suite 203  
Henderson, Texas 75654

George L. McWilliams  
406 Walnut  
P.O. Box 58  
Texarkana, Texas 75504-0058

Charles L. Babcock *w/ permission by Crystal J. Parker*  
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