

EXHIBIT D

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.

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ATTORNEYS FOR DEFENDANT
CISCO SYSTEMS, INC.

CERTIFICATE OF SERVICE

This is to certify that on this 14th 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

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