Exhibit B

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February 6, 2009

VIA EMAIL & U.S. MAIL

Sayuri Sharper
Quinn Emanuel Urquhart Oliver & Hedges, LLP
555 Twin Dolphin Drive, Suite 560
Redwood Shores, CA 94065

RE: ESN, LLC v. Cisco Systems, Inc., and Cisco-Linksys, LLC, Civil Action No. 5:08-cv-20

Dear Sayuri:

We are writing to formally respond to your letter of January 30, 2009 regarding Cisco's proposed second supplement to its P.R. 3-3 contentions, and to address some issues with your most recent production, in particular the documents cited in support of your second supplement to Cisco's P.R. 3-3 contentions.

ESN will oppose Cisco's second supplement to its P.R. 3-3 disclosures because, among other reasons, it is not timely and seeks to add 25 or more additional alleged prior art references. This is on top of the over 100 alleged prior art references cited in Cisco's original June 2, 2008 disclosure. Since June 2, 2008, we have exchanged correspondence with you and have had numerous phone calls regarding the multiple deficiencies with Cisco's P.R. 3-3 disclosures. We specifically outlined the numerous deficiencies in our letter of September 8, 2008, however, Cisco refused to supplement its disclosure as requested. On October 15, 2008, Cisco served its first supplemental P.R. 3-3 disclosures, which did nothing more than add conclusory statements relating to Cisco's 35 U.S.C. § 112 ¶¶ 1 & 2 defenses.

ESN finds Cisco's excuse for such a late disclosure of this additional alleged prior art lacking in substance. Cisco claims that it should be permitted to supplement its invalidity disclosures because ESN "amended and clarified" its infringement contentions on November 5, 2008 and "revealed infringement theories and apparent claim constructions that were lacking in the original contentions." Cisco also claims that on December 19, 2008 ESN revealed its "new claim construction positions" and "narrowing

of the claims" as an excuse for its late disclosure. ESN cannot except these excuses because they are simply not true.

On November 5, 2008, ESN supplemented its infringement contentions only to the extent that it added specific citations to the documentary evidence by way of production numbers from the documents that had recently been produced by Cisco. ESN **did not** alter, change or otherwise amend any infringement position. ESN **did not** add any new claims to its disclosure and, in fact, ESN dropped twelve claims from its infringement case. ESN was required by the Docket Control Order to reduce the number of claims to no more than ten claims by November 21, 2008. ESN complied with that requirement 16 days early. Since there was no substantive change in ESN's infringement contentions, Cisco cannot legitimately claim ESN's supplement caused it to change its invalidity position.

Also, your letter states that ESN revealed its "new claim construction positions" on December 19, 2008, as if there had been some other claim construction positions previously revealed. To the contrary, both parties exchanged proposed claim constructions for the **first** time on December 19, 2009 in accordance with the local Patent Rules and the Docket Control Order. The local Patent Rule do not state that the exchange of preliminary claim constructions is a valid basis for supplementing the invalidity disclosures. Therefore, we cannot accept Cisco's excuse that the exchange of preliminary claim constructions gave cause to strike up new prior art searches.

We also disagree with your assertion that allowing the supplemental disclosure will cause no prejudice to ESN. Since June, we have spent an enormous amount of time reviewing and analyzing the 100 plus references cited in your original 3-3 disclosures. Now you are saying the addition of 25 new references is not prejudicial. As you pointed out, our claim construction brief is due in less than two months and claim construction discovery will be cut-off on March 11, 2009 (a little more than a month away). Discovery is also well underway as hundreds of thousands of pages of materials have been exchanged (150,000 plus in the last 60 days), hundreds of written discovery requests have been served and answered and depositions have begun, are scheduled and/or in the process of being scheduled.

For at least the reasons set forth herein, ESN opposes Cisco's attempt to supplement its P.R. 3-3 disclosures for a second time.

With respect to the documents referenced in your second supplemental

disclosure, as we discussed yesterday, the alleged prior art has been designated "Confidential – Outside Counsel Only," which is either a mistake or means that these documents were not available to the public. Additionally, it appears that most, if not all, of those documents were printed from websites and it appears that the dates demonstrating when those documents were downloaded have been redacted. Some documents have no dates whatsoever. Please advise us as to whether dates have been redacted from those documents and produce unredacted documents to the extent they exist. In either event, please advise when Cisco learned of those documents and/or the alleged products described therein.

Very truly yours,

Gerald C. Willis

c: T. John Ward
Eric M. Albritton
Vicki Maroulis