

1 **SINGLETON SCHREIBER, LLP**
CHRISTOPHER R. RODRIGUEZ, SB# 212274
2 E-Mail: crodriguez@singletonschreiber.com
ANDREW D. BLUTH, SB# 232387
3 E-Mail: abluth@singletonschreiber.com
JOHN R. TERNIEDEN, SB# 330343
4 E-Mail: jternieden@singletonschreiber.com
TRENT J. NELSON, SB# 340185
5 E-Mail: tnelson@singletonschreiber.com
YUQING "EMILY" MIN, SB# 347239
6 E-Mail: emin@singletonschreiber.com
1414 K Street, Suite 470
7 Sacramento, California 95814
Telephone: (916) 248-8478
8 Facsimile: (619) 255-1515

9 **LAW OFFICE OF THOMAS LEARY, APC**
THOMAS A. LEARY, SB# 123792
10 3023 First Avenue
San Diego, California 92103
11 Phone: (619) 291-1900

12 Attorneys for Plaintiffs

13
14 SUPERIOR COURT FOR THE STATE OF CALIFORNIA

15 COUNTY OF ORANGE

Assigned for All Purposes
Judge William Cluster

17 ZESHAAN AHMED, an individual; and
18 TREVOR DIXON, an individual, on behalf
of themselves and all others similarly
situated,

19 Plaintiffs,

20 v.

21 CISCO SYSTEMS, INC., a corporation;
22 and DOES 1 through 100,

23 Defendants.

No. 30-2023-01364539-CU-MC-CXC

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

24
25 **COMPLAINT**

26 Plaintiffs Zeshaan Ahmed and Trevor Dixon, by and through their undersigned counsel, on
27 their own behalf and on behalf of all other persons similarly situated (residents of California only)
28

1 (collectively, “Plaintiffs”), sue Cisco Systems, Inc. (“Cisco”) and DOES 1 through 100 (“Doe
2 Defendants”) (Cisco and Doe Defendants are collectively referred to herein simply as the
3 “Defendants”) and for this Complaint, allege upon information and belief, and based on the
4 investigation to date of their counsel, as follows:

5 INTRODUCTION

6 1. This is a class action brought for the benefit and protection of Plaintiffs, and all other
7 similarly situated consumers who are residents of California and who, while residing in California,
8 have completed sales transactions through the “cisco.com” web page operated by Defendants (the
9 “Website”).

10 2. By way of this action, Plaintiffs, and all others similarly situated, seek damages,
11 restitution, injunctive relief, public injunctive relief, and other relief necessitated by Defendants’
12 unlawful and unfair actions in violation of California Civil Code section 1670.8 and California
13 Business and Professions Code section 17200. Plaintiffs on behalf of themselves and all others
14 similarly situated (“Class”) seek an order permanently enjoining Defendants from engaging in these
15 ongoing unlawful and unfair practices, and civil penalties and damages available under California
16 law.

17 3. Because of the current power of the internet and social media platforms to publicize
18 a company’s offerings of goods and services—and the potential harm to corporate interests when
19 negative consumer statements “go viral”—Defendants have a significant incentive to minimize the
20 negative publicity they receive, including in the form of negative online reviews and comments.
21 Some companies have gone so far as to attempt to prohibit customers and potential customers from
22 making negative statements about the goods and services they offer, to the detriment of consumers,
23 potential consumers, and the public of the State of California. Fortunately, California Civil Code
24 section 1670.8 was enacted to protect the right of California consumers to voice their opinions,
25 observations, and experiences about the products and services delivered or offered to California
26 consumers, as well as the citizens of the State of California. The California Legislature reasonably
27 and correctly determined that such freedom is important to keep the public informed and keep large
28 corporations honest about the quality of the goods and services they offer to consumers.

1 4. Section 1670.8(a) provides as follows: “(1) **A contract or proposed contract** for
2 the sale or lease of consumer goods or services **may not include a provision waiving the**
3 **consumer’s right to make any statement** regarding the seller or lessor or its employees or agents,
4 or concerning the goods or services” and “(2) **It shall be unlawful to threaten or seek to enforce**
5 **a provision made unlawful under this section, or to otherwise penalize a consumer for making**
6 **any statement protected under this section.**” Section 1670.8’s protections are so important that
7 the statute expressly provides that “**any waiver of the provisions of this section is contrary to**
8 **public policy, and is void and unenforceable.**”

9 5. In order to use and benefit from the Website, Website visitors, or users, are informed
10 that they must agree to Cisco Web Site Terms of Use (“Terms”). In fact, Defendants assert that by
11 simply “accessing, visiting, or otherwise using” the Website, users “agreed to be bound by the
12 Terms”—regardless of whether users are simply visiting the Website or are actual purchasers or
13 registered members of the Website.

14 6. While conducting substantial business with California consumers, the Terms
15 Defendants impose upon customers and prospective customers clearly violate Section 1670.8.
16 Pursuant to the Terms, Defendants require users to agree to Cisco’s Web Usage Policy—which is
17 incorporated into the Terms. Therein, Defendants state that Website users cannot make statements
18 using or concerning Cisco’s trademarked brands that “disparage” or “harm the reputation of Cisco,
19 its employees, partners, vendors, or other related companies.” The Terms further threaten that if
20 Website users violate these Terms, Defendants may terminate such users’ ability to use the Website
21 “immediately and without notice.”

22 7. Defendants’ conduct is unlawful, including among other reasons, because it is aimed
23 to stifle California consumers’ right to free speech, and the right of the California public to hear
24 lawful discourse. Defendants’ strong-arm tactics to silence injured parties were and continue to be
25 intentionally exercised to protect Defendants’ self-promoting public image for commercial and
26 other benefits. Defendants’ unlawful business practices, purposefully designed to maintain and
27 increase their consumers and prop up their stock price, all while denying public, consumers, and
28 potential consumers accurate information so that they may make informed decisions as consumers.

1 Cisco, within the applicable limitations period, in the State of California.

2 13. Upon information and belief, Cisco has its headquarters and principal place of
3 business at 170 West Tasman Drive, San Jose, California 95134. Defendant Cisco manufactures,
4 markets, and sells via its Website a wide variety of networking hardware, software,
5 telecommunications equipment and other high-technology services and products. Cisco sells its
6 products in outlets nationwide and generates sales through its seasonal catalogs, online
7 advertisements, and the Website.

8 14. The true names and/or capacities, whether individual, corporate, partnership,
9 associate, governmental, or otherwise, of the Doe Defendants, inclusive, and each of them, are
10 unknown to Plaintiffs at this time, who therefore sues said Doe Defendants by such fictitious names.
11 Plaintiffs are informed and believe, and thereon allege, that each defendant designated herein as a
12 Doe Defendant caused injuries and damages proximately thereby to Plaintiffs as hereafter alleged,
13 and that each Doe Defendant is liable to Plaintiffs for the acts and omissions alleged herein below,
14 and the resulting injuries to Plaintiffs, and damages sustained by Plaintiffs. Plaintiffs will amend
15 this Complaint to allege the true names and capacities of said Doe Defendants when that same is
16 ascertained.

17 **FACTS COMMON TO ALL CLASS MEMBERS**

18 15. At all relevant times, Defendants were and currently are in the business of
19 advertising, promoting, marketing, selling, and distributing consumer products via the Website,
20 which is targeted to, and accessible by, the citizenry of California.

21 16. Defendants are well-aware that their public image is vital to maintaining and gaining
22 customers. If the public sees content posted by users that may be insulting or otherwise critical of
23 or harmful to Cisco, and/or any of the Defendants, their partners, and/or any of their employees,
24 and/or concerning any of their goods or services, then Defendants' current customers and/or
25 prospective customers may shift to a competitor, ultimately resulting in loss of business and loss of
26 revenue.

27 17. Thus, in order to maintain a positive public image, Defendants have engaged in an
28 intentional business strategy to silence each and every customer or potential customer who visits

1 the Website by purporting to bind users to the Terms—immediately upon accessing the Website.

2 18. Specifically, Defendants’ Terms provide that “by accessing, visiting, or otherwise
3 using” the Website, users agree to not make statements using or concerning Cisco’s trademarked
4 brands that “disparage” or “harm the reputation of Cisco, its employees, partners, vendors, or other
5 related companies.” The Terms further threaten that if Website users violate these Terms,
6 Defendants may terminate such users’ ability to use the Website immediately and without notice.

7 19. In doing so, Defendants have and continue to engage in unlawful and unfair conduct,
8 that is contrary to public policy and in violation of California Civil Code section 1670.8 and
9 California Business and Professions Code section 17200.

10 20. Each of the Plaintiffs specifically identified herein, and millions more similarly
11 situated persons in the State of California, have visited the Website and engaged in at least one
12 sales transaction thereon, and thus have been subjected to the unlawful Terms.

13 **CLASS ACTION ALLEGATIONS**

14 21. Pursuant to California Code of Civil Procedure section 382, Plaintiffs bring this
15 class action on their own behalf and on behalf of all other similarly situated consumers in California.
16 The proposed class is defined as follows:

17 a. During the fullest period allowed by law, all persons residing in California who used the
18 Website to complete transactions with Defendants (the “Class”).

19 22. Like Plaintiffs, all Class members are California residents who used the Website to
20 complete transactions with Defendants and who were thus subject to the Terms that limit their right
21 as consumers to make statements regarding Defendants or their employees, partners, vendors, and
22 other related companies, or concerning the goods or services offered by Defendants.

23 23. Excluded from the Class are assigned judges and members of their families within
24 the first degree of consanguinity; Defendants; and Defendants’ subsidiaries, affiliates, officers, and
25 directors.

26 24. The requirements of Code of Civil Procedure section 382 are satisfied for the
27 proposed Class.

28 25. The proposed Class is so numerous that individual joinder of all the members is

1 impracticable because members of the Class number in the tens or hundreds of thousands. The
2 precise number of Class members and their identities are unknown to Plaintiffs at this time but are
3 objectively ascertainable and will be determined through appropriate discovery and other readily
4 available means.

5 26. Defendants possess objective evidence as to the identity of each Class member and,
6 to a reasonable degree of certainty, the harm suffered by each Class member, including without
7 limitation web traffic data evidencing visits to the Website, sales receipts, phone numbers, names,
8 rewards accounts data, credit card data, customer service complaint forms/emails/date, and other
9 evidence which objectively identifies class members.

10 27. Class members may be notified of the pendency of this action by mail, publication
11 and/or through the records of Defendants.

12 28. There are common questions of law and fact affecting Plaintiffs and Class members.
13 Common legal and factual questions include, but are not limited to:

14 a. Whether each imposition of Defendants' Terms upon members of the Class constitutes a
15 violation of the provisions of California Civil Code section 1670.8 and, if so, whether each such
16 violation is a "willful, intentional, or reckless" violation;

17 b. Whether Defendants' Terms are unlawful, contrary to public policy, void and/or
18 unenforceable;

19 c. Whether by the misconduct set forth in this Complaint, Defendants engaged and continue
20 to engage in unfair, fraudulent, or unlawful business practices;

21 d. Whether the Class is entitled to recover statutory attorney's fees;

22 e. Whether Class members are entitled to civil penalties; and

23 f. Whether, as a result of Defendants' misconduct alleged herein, Plaintiffs and Class
24 members are entitled to restitution, injunctive, public injunctive, and/or monetary relief and, if so,
25 the amount and nature of such relief.

26 29. Plaintiffs' claims are typical of the claims of the proposed Class because the rights
27 of Plaintiffs and Class members were violated in the same manner by the same conduct.

28 30. Plaintiffs and Class members are all entitled to recover statutory penalties and other

1 relief arising out of Defendants' violations of statutory law alleged herein.

2 31. Plaintiffs will fairly and adequately represent and protect the interests of the Class.

3 32. Plaintiffs' interests do not conflict with the interests of the Class they seek to
4 represent. Plaintiffs have retained counsel competent and experienced in prosecuting class actions,
5 and Plaintiffs intend to vigorously prosecute this action.

6 33. The class mechanism is superior to other available means for the fair and efficient
7 adjudication of the claims of Plaintiffs and Class members.

8 34. Given the relative value of statutory penalties available to any of the individual Class
9 members, individual litigation is not practicable.

10 35. Individual Class members will not wish to undertake the burden and expense of
11 individual cases.

12 36. In addition, individualized litigation increases the delay and expense to all parties
13 and multiplied the burden on the judicial system. Individualized ligation also presents the potential
14 for inconsistent or contradictory judgments.

15 37. In contrast, the class action device presents far fewer management difficulties and
16 provides the benefits of single adjudication, economy of scale, and comprehensive supervision by
17 a single court.

18 38. Questions of law and fact common to all Class members predominate over any
19 questions affecting only individual Class members. Injuries sustained by Plaintiffs and Class
20 members flow, in each instance, from a common nucleus of operative facts as set forth above.

21 39. In each case, Defendants' actions caused harm to all Class members as a result of
22 such conduct. The resolution of these central issues will be the focus of the litigation and
23 predominate over any individual issues.

24 40. Proposed Class counsel possesses the knowledge, experience, reputation, ability,
25 skill, and resources to represent the Class and should be appointed lead counsel for the Class.

26 **COUNT I— VIOLATION OF CIVIL CODE SECTION 1670.8**

27 41. Plaintiffs re-allege and incorporate by reference Paragraphs 1 through 40 of their
28 Complaint. Plaintiffs assert this cause of action on behalf of themselves and all other similarly

1 situated persons residing in California who used the Website to complete transactions with the
2 Defendants.

3 42. Defendants are in the business of selling consumer goods and services.

4 43. Plaintiffs and Class members purchased goods and services from Defendants via the
5 Website.

6 44. Pursuant to the Terms on the Website, Defendants told Plaintiffs and the Class
7 members that Website users cannot make statements using or concerning Cisco's trademarked
8 brands that "disparage" or "harm the reputation of Cisco, its employees, partners, vendors, or other
9 related companies." The Terms further threaten that if Website users violate these Terms,
10 Defendants may terminate such users' ability to use the Website "immediately and without notice."

11 45. By simply accessing or using the Website, Defendants purport to have charged
12 Plaintiffs and Class members with having read, understood, and agreed to be bound by the Terms.

13 46. By way of this restriction, Defendants intentionally, willfully, or recklessly sought
14 to have Plaintiffs and the Class members waive their right as consumers to make statements
15 regarding Cisco, or any of the Defendants, their employees, vendors, partners, or any other related
16 companies, which restriction is prohibited under California Civil Code 1670.8 and is contrary to
17 public policy.

18 47. Defendants have repeatedly violated California Civil Code 1670.8 in relation to each
19 of the Plaintiffs and Class members and their respective transactions.

20 48. Defendants' conduct has caused Plaintiffs and Class members to suffer harm.

21 49. Plaintiffs and Class members are entitled to restitutionary and injunctive relief,
22 including public injunctive relief.

23 50. Plaintiffs and Class members are also entitled to civil penalties for Defendants'
24 violations of Civil Code 1670.8.

25 **COUNT II—VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTION 17200**

26 51. Plaintiffs re-allege and incorporate by reference Paragraphs 1 through 50 of their
27 Complaint. Plaintiffs assert this second cause of action on behalf of themselves and all other
28 similarly situated persons residing in California who used the Website to complete transactions

1 with Defendants.

2 52. By engaging in the above-described conduct, Defendants, and each of them, acted
3 in a manner that is unlawful and unfair—including by virtue of the fact that their conduct violates
4 California Civil Code section 1670.8—and have thus engaged in unfair and unlawful business
5 practices to the extreme detriment of Plaintiffs and Class members, which conduct is prohibited
6 under California Business & Professions Code sections 17200, et seq.

7 53. Defendants' unlawful and unfair conduct has allowed for Defendants to enrich
8 themselves at the expense of Plaintiffs and Class members, including through Plaintiffs' and Class
9 members' payment of monies to Defendants, including without limitation through the purchase
10 transactions completed on the Website.

11 54. Plaintiffs are thus entitled to restitutionary and injunctive relief, including without
12 limitation disgorgement of any unlawful gains that Defendants obtained as a result of their unlawful
13 and unfair conduct at the expense of Plaintiffs and Class members.

14 **PRAYERS FOR RELIEF**

15 **WHEREFORE**, Plaintiffs, on behalf of themselves and the putative Class members, pray
16 for judgment as follows:

17 a. Determining that this action is a proper class action and certifying the Class, as defined
18 herein;

19 b. Appointing Plaintiffs as Class representatives;

20 c. Appointing the undersigned as Class counsel;

21 d. Finding Defendants liable to Plaintiffs and Class members for damages in such amount(s)
22 as the Court or Jury may determine;

23 e. Awarding statutorily provided damages to Plaintiffs and Class members as appropriate;

24 f. Awarding restitutionary disgorgement and all other forms of equitable monetary relief to
25 Plaintiffs and Class members;

26 h. Awarding pre- and post-judgment interest;

27 i. Awarding injunctive relief, including public injunctive relief, as claimed herein or as the
28 Court may deem proper;

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j. Awarding Plaintiffs and Class members attorney fees and all litigation costs, as allowed by law; and

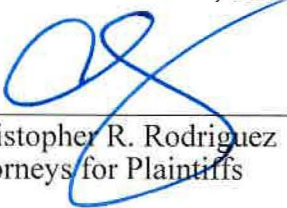
k. Awarding such other and further relief as may be just and proper.

DEMAND FOR JURY TRIAL

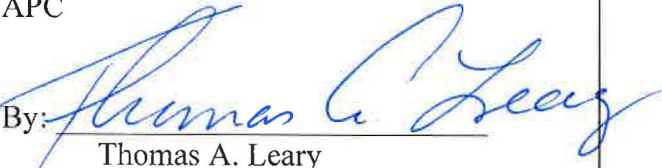
Plaintiffs hereby demand a trial by jury on all issues so triable.

Dated: November 21, 2023

SINGLETON SCHREIBER, LLP

By: 
Christopher R. Rodriguez
Attorneys for Plaintiffs

LAW OFFICES OF THOMAS LEARY,
APC

By: 
Thomas A. Leary
Attorneys for Plaintiffs