

Cisco IPR Disclosure Relating to tcpsecure

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This Presentation

- this presentation is only about the Cisco IPR disclosure and its meaning
- included are some questions I've seen on the list or have been asked directly
- I do not represent Cisco
 - but discussed this presentation with Cisco
- I am not a lawyer
 - ask your lawyer if you want legal advice
- I will try to not present any of my opinions

Why Me?

- I'm the editor of the IETF IPR-related RFCs (RFC 2026 & RFC 3668)
- I've been 'in the loop' on this issue since it first came up
- I've discussed the Cisco disclosure (via email) with Cisco IPR counsel

Cisco Disclosure Part 1

(from May 17, 2004)

Cisco is the owner of one or more pending patent applications relating to the subject matter of "Transmission Control Protocol security considerations" <draft-ietf-tcpm-tcpsecure-00.txt>.

Cisco Disclosure Part 2

If technology in this document is included in a standard adopted by IETF and any claims of any Cisco patents are necessary for practicing the standard, any party will be able to obtain a license from Cisco to use any such patent claims under reasonable, non-discriminatory terms, with reciprocity, to implement and fully comply with the standard.

Cisco Disclosure Part 3

The reasonable non-discriminatory terms are:
If this standard is adopted, Cisco will not assert any patents owned or controlled by Cisco against any party for making, using, selling, importing or offering for sale a product that implements the standard, provided, however that

Cisco Disclosure Part 4

Cisco retains the right to assert its patents (including the right to claim past royalties) against any party that asserts a patent it owns or controls (either directly or indirectly) against Cisco or any of Cisco's affiliates or successors in title for an implementation of any IETF standard;

Cisco Disclosure Part 5

and Cisco retains the right to assert its patents against any product or portion thereof that is not necessary for compliance with the standard.

Royalty-bearing licenses will be available to anyone who prefers that option.

Questions Raised 1

Did Cisco follow the IETF rules?

yes - Cisco filed its IPR disclosure soon after the tcpsecure ID was published (see RFC 3668 Section 6.2.1)

Why didn't Cisco include a note on the IPR in the tcpsecure ID?

because it was not supposed to (see RFC 3668 section 11)

Questions Raised 2

Do you have to get a license from Cisco to implement and sell (or distribute) a product that includes tcpsecure?

no - you can get a license if you want to but do not need to (unless you sue Cisco for infringing on a patent in Cisco's implementation of any IETF standard)

Questions Raised 3

Do you have to pay Cisco a fee to implement and sell (or distribute) a product that includes tcpsecure?

no - you can get a license and pay a fee if you want to but do not need to (unless you sue Cisco for infringing on a patent in Cisco's implementation of any IETF standard)

Questions Raised 4

What does the Cisco disclosure mean for open source implementations of tcpsecure?

open source implementation, distribution and use of any product that includes tcpsecure IPR is permitted with no license or fee required (as long as the open source vendor does not sue Cisco over patent infringement of any IETF standard)

Questions Raised 5

Can Cisco change the rules later (e.g., if Cisco is bought by another company)

Cisco could remove existing restrictions but can not add new ones

Can Cisco stop someone from using tcpsecure (even if they sue Cisco)?

no - Cisco committed to making royalty-bearing licenses available to everyone - Cisco did not commit to a specific royalty (under IETF rules it is not asked to do so, nor has anyone else done so)

Questions Raised 6

What does “reciprocity” mean in the Cisco IPR disclosure?

Cisco expects a rand license from anyone holding IPR relating to tcpsecure, all bets are off if this is not the case

Questions Raised 7

Does the Cisco statement grant Cisco a license to patents owned by another company (if the other company implements tcpsecure)?

no - Cisco does not get a license to the other company's patents and the other company is not prevented from asserting patents against Cisco (but there could be consequences if they do so regarding an IETF standard)

Any more Questions?