

Declaration of Todd S. Glassey  
in Opposition to Defendant Cisco's  
Motion to Dismiss.

I, Todd S. Glassey declare the following under the penalty of Perjury of the Laws of the United States of America that the following is true and correct to the best of my knowledge and that for those things I rely on Information and Belief, that they are also true and correct.

I further declare

1. I am the principal plaintiff and creator of the core systems which were ultimately patented as US63709629 and US6393126. In both instances I created these core systems as part of decision-level control practices which use digital evidence standards for supporting their attested data's basis in fact.

**Patent Infringement Complaint was based on FORM-18 and named IETF and CISCO properly.**

2. The First Amended Complaint ("FAC") was originally derived from FORM-18 in actuality, and so is fully FORM-18 Compliant; The complaint alleges that Cisco

and the IETF (as well as other IETF members) "included in IETF processes the patent protected IP Plaintiffs hold third-party enforcement rights after being denied rights to do so formally" and that as such IETF nor Cisco have any license to use these specific IP's in any Systems or Designs which will force others to use these Intellectual Properties.

3. Likewise neither party (Cisco or IETF) may use these Intellectual Properties inside of their own systems in the form of device drivers, network interface software's or any applications which are dependant on GeoSpatial or secured GIS (graphical information systems for Cartography) as a component trigger or container for content of some form.
  
4. Finally in addition to not using those intellectual properties without license Cisco may not resell any of these IP's to any third party or distribute any devices which infringe such as those built by Microsemi or any of its other partners either. In fact none of the named defendants have any production licenses and none of them have patent-licensing in place to cover their patent infringement in implementing their Internet facing tools and services. This includes Cloud Systems Operations as well as dynamic and virtualized schedulers in Cloud and Distributed Computing Systems as well as the infrastructure linking them. Hence the MGM Studios v Grokster reference "in causing others to infringe another's IP licensing rights" by creating standards which require others to infringe.

**Defendant IETF**

5. The IETF is a Multinational electronic standards platform with a set of standards design and publishing services for open-access Internet and Local Area Networking Standards.
  
6. The IETF is in fact the holder of every core networking standard critical to the operations of all TCP/IP networking today everywhere, not just the US, but globally as well. All users of TCP/IP networking are tied to IETF standards and their copyright and use provisions.
  
7. The average IETF standard is estimated at a four million to ten million US Dollar cost-to-obtain and an untold value as part of marketing a network based service or selling components for a new feature set or network service based therein. This means the basic value of the Standard is also between four million and ten million dollars as well.

**Defendant Cisco Corporation and its dependence on Defendant IETF**

8. Cisco corporation sells Networking Infrastructure components and services based on network technology. In almost all cases all of Cisco's products are constrained at some level by IETF IP Licenses for the protocols Cisco publishes Software implementations of. As such Cisco cannot exist today as it is without the IETF and its standards practice and standards.

### **IETF BCP78 and BCP79**

9. Because of this dependency Cisco actively manages the IETF and holds many of its RFC's as well as publishing hundreds of its protocols, all of which are controlled under the IETF policy controls of BCP78 and BCP79.

### **Cisco's efforts inside the IETF**

10. Having long recognized its dependency on IETF Software Licenses and the ability to control the Global Standards Community managing the development of the Worlds Internet and Local Area Networking Standards Cisco Corporation ("Cisco") is a Founding Member of the 'Internet crowd' (the clique of parties in the Standards Community who are the core IETF membership) and maintains a professional standards presence apart from its active standards development practices within the IETF for managing the IETF and its operations. It supports

Defendant Internet Society fully both financially and through equipment donations.

11. Finally it (Cisco) has deep ties to the Internet's foundation as the "Stanford University Router Company" that Cisco quietly is.

### **Further Antitrust Violations - Submarine Patents**

12. In addition to its unauthorized use as properly charged in the complaint, Cisco has on one or more occasions violated Antitrust in the Global Standards Organization IETF by covertly withholding information about both its own use of patent protected IP but also in patents it holds which already exist and control specific functions they are actively creating standards in; in this case the NETWORK ENDPOINT ASSESSMENT("NEA") protocol, and the fact Cisco started the IETF's NEA Working Group after the patent which would control the NEA functionality was already published.

13. In doing so (i.e. in Founding the NEA Working Group with Juniper Networks) I allege Cisco defrauded everyone [ala 'Rambus and the JEDEC standards manipulation' which FTC prosecuted Rambus for] when Cisco founded the NEA Working Group in asserting to the others around the IETF and those parties who may come to use NEA around the IETF as interested and future relying parties on the licensing of that key IP, that no such patents existed; all the while when their

legal department apparently knew the patents in fact did exist in multiple Jurisdictions. This violated a number of good faith and fiduciary requirements for transparency in collaborative and open standards development.

**Proving Scierter in the Fraud Claim**

14. In a fraud claim the key issue is proving Scierter, that the party performing the fraud is fully aware of their actions and is acting with malice of forethought in their execution of the fraud steps. In all instances this hurdle is fully met in the Fraud Claims before the Court as well because all parties are informed of their legal responsibilities for using IETF protocol standards outside of the Standards Environment they are limited for use in;
15. After Rambus the mere statement that a Patent Fraud occurred inside of a Global Standards used to control all networking systems on the entire planet earth is an easy concept to defend. Any party acting to prevent disclosure of truth to the other parties in the matter would be responsible for the losses and subsidiary damages which will trickle in for years from any fraud in a standards house as was set forth as a mechanism to qualify scierter in fraud claims ala Zirn v. VLI Corp. 681 A.2d 1050, 1061 (Del. 1 996).

Respectfully submitted,

\_\_\\Todd S. Glassey\_\_  
**Todd S. Glassey, In Pro Se**

tglassey@earthlink.net

305 McGaffigan Mill Road  
Boulder Creek CA 95006

Telephone: (408) 890-7321