unix ssh command ssh(R) trademark issues: comments and proposal

Posted by Tatu Ylonen - 2008/06/29 13:15

From ylo Wed Feb 14 03:36:19 +0200 2001 From: Tatu Ylonen <y...@ssh.com To: openssh-unix-...@mindrot.org Subject: SSH trademarks and the OpenSSH product name Organization: SSH Communications Security, Finland Friends, Sorry to write this to a developer mailing list. I have already approached some OpenSSH/OpenBSD core members on this, including Markus Friedl, Theo de Raadt, and Niels Provos, but they have chosen not to bring the issue up on the mailing list. I am not aware of any other forum where I would reach the OpenSSH developers, so I will post this here. As you know, I have been using the SSH trademark as the brand name of my SSH (Secure Shell) secure remote login product and related technology ever since I released the first version in July 1995. I have explicitly claimed them as trademarks at least from early 1996. In December 1995, I started SSH Communications Security Corp to support and further develop the SSH (Secure Shell) secure remote login products and to develop other network security solutions (especially in the IPSEC and PKI areas). SSH Communications Security Corp is now publicly listed in the Helsinki Exchange, employs 180 people working in various areas of cryptographic network security, and our products are distributed directly and indirectly by hundreds of licensed distributors and OEMs worldwide using the SSH brand name. There are several million users of products that we have licensed under the SSH brand. To protect the SSH trademark I (or SSH Communications Security Corp, to be more accurate) registered the SSH mark in the United States and European Union in 1996 (others pending). We also have a registration pending on the Secure Shell mark. The SSH mark is a significant asset of SSH Communications Security and the company strives to protect its valuable rights in the SSHŽ name and mark. SSH Communications Security has made a substantial investment in time and money in its SSH mark, such that end users have come to recognize that the mark represents SSH Communications Security as the source of the high quality products offered under the mark. This resulting goodwill is of vital importance to SSH Communications Security Corp. We have also been distributing free versions of SSH Secure Shell under the SSH brand since 1995. The latest version, ssh-2.4.0, is free for any use on the Linux, FreeBSD, NetBSD, and OpenBSD operating systems, as well as for universities and charity organizations, and for personal hobby/recreational use by individuals. We have been including trademark markings in SSH distributions, on the www.ssh.fi, www.ssh.com, and www.ssh.org web sites, IETF standards documents, license/readme files and product packaging long before the OpenSSH group was formed. Accordingly, we would like you to
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Posted by "Michael H. Warfield" - 2008/06/29 13:15

- We would need to reach agreement with the OpenSSH group to change their product name and to otherwise cease using the SSH trademarks inappropriately. We appreciate that some people have brought the non-commercial university group use to our attention. We are carefully reviewing this situation. So far, with OpenSSH you've only got the name of the project (but that's not using your lower case ssh), the name of the
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Posted by Mate Wierdl - 2008/06/29 13:15

- Any product where the command name ssh is used must only be licensed under a valid license (i.e., must not be in the public domain). E.g. BSD license, GPL, and normal commercial licenses would all be ok. - An acknowledgement of our ownership of the ssh(R) and Secure Shell(TM) trademarks must be included in the software (help text, documentation, license). It would not need to be printed out every time the program is normally run, but would need to be included in e.g. in an appropriate place on man pages and in help texts. I wonder now if grep, sed, sh, and other unix commands must be similarly carefully treated. What if I have been distributing my little Unix like OS for 20 years, and this OS has a script called s.sh? Now you are telling me to change this script's name? What if openssh changes its name to opensafesh (but opensafe sounds better

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Posted by "Robert O'Callahan" - 2008/06/29 13:15

Let's discuss the exact terms if I get a preliminary ok, looks fine, let's try to get this resolved along those lines from the community and the relevant parties. It would be a fair proposal if your trademark was defensible, but I think it

could hardly be more clear that you have failed to protect the mark and that it has passed into the public domain. So I'm not very interested in your proposal. If you can somehow get the community to go along with it, I'll follow, otherwise, I won't bother. This is a sad situation because I think by not pursuing your trademark in the past, you did a good and reasonable thing. It feels a bit like you're now being punished for that. However, the truth is that you are being punished because you have stopped being reasonable. If you planned to ever enforce your trademark, then it would have been better for everyone (and required by law) for you to have enforced it from the beginning. Rob

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Posted by Matthew Weigel - 2008/06/29 13:15

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For example, I notified Van Dyke of the trademark a few years ago when they used the SSH mark on their web site inappropriately. We discussed it, they were very co-operative, and immediately added trademark markings and acknowledgement on their website. Issue solved. (They were not using it in a product name.) Basically, anyone we have ever really encountered in the marketplace has either been notified or is a licensee of ours. F-Secure SSH has been using the name for years F-Secure (formerly Data Fellows) is our distributor/VAR, and they are using the SSH trademark in their product name under a separate written trademark license agreement. All of the F-Secure SSH products are SSH Communication Security Corp's products, some verbatim and some with modifications by F-Secure. But trademark is not claimed, regardless

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Posted by Bill Sommerfeld - 2008/06/29 13:15

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Matthew (and others): Please do not CC: discussions of the validity of the ssh trademark to the IETF Secure Shell protocol working group list <ietf-...@clinet.fi; they're out of scope for the working group. Thank you for your cooperation. - Bill

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Posted by Garance A Drosihn - 2008/06/29 13:15

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Please do not CC: discussions of the validity of the ssh trademark to the IETF Secure Shell protocol working group list <ietf-...@clinet.fi; they're out of scope for the working group. I appreciate this, except that Tatu claims the IETF will be asked to change the protocol name. If the working group is planning on a name change, then it is relevant to this debate. More importantly, if the working group has NO intention of changing the name, then it seems to me that openssh is just an implementation of a generic protocol named 'ssh'. This message (this one here, the one I am writing) is a reply to Tatu Ylonen, and it was Tatu who felt this was appropriate for the ietf-ssh mailing list. Perhaps that is the wrong list, but I don't know what else in the ietf would be the correct alternative. So, it is not that I'm trying to ignore Bill's request, but I don't know who else is supposed to clarify IETF's position on this.

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