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International Business Machines Corporation

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

THE SCO GROUP, INC.,	**DECLARATION OF DANIEL FRYE**
Plaintiff/Counterclaim-Defendant,	
v.	Civil No. 2:03CV-0294 DAK
INTERNATIONAL BUSINESS MACHINES CORPORATION,	Honorable Dale A. Kimball
Defendant/Counterclaim-Plaintiff.	Magistrate Judge Brooke C. Wells

ORIGINAL

DECLARATION OF DANIEL FRYE

I, Daniel Frye, declare as follows:

1.   I am the co-founder and present director of International Business Machines Corporation's ("IBM") Linux Technology Center ("LTC").

2.   This declaration is submitted in connection with the lawsuit brought by SCO against IBM, entitled The SCO Group, Inc. v. International Business Machines Corporation, Civil No. 2:03CV-0294 DAK (D. Utah 2003). I make this declaration based upon personal knowledge.

3.   The LTC is a center of competency and development for IBM in the area of Linux and open source.

4.   As director of the LTC, I am responsible for overseeing IBM's Linux technical strategy and participation in the Linux development community. Based upon my duties and responsibilities at IBM, I have personal knowledge of IBM's Linux activities.

5.   Like thousands of others, IBM has participated in the development of Linux. In addition to contributing source code to Linux, IBM offers Linux training and support, applications testing, technical advice and a hands-on environment in which to evaluate Linux and Linux-based applications. Version 2.4 of the Linux kernel was released in 2001, and version 2.6 of the Linux kernel was released in 2003. Linux kernel versions 2.2, 2.4, and 2.6 each consist of millions of lines of code.

6.   A number of companies distribute Linux. These Linux distributors offer a variety of commercial Linux products, which typically comprise the Linux kernel, the applications that the kernel runs (which, with the kernel, comprise a complete operating system) and whatever else the distributor chooses to combine into an easily installable product.

7.   IBM has many Linux-compatible offerings: mainframes and servers that run Linux; memory solutions for Linux environments; a broad range of Linux-compatible software offerings; services that assist companies in deployment of Linux-based computing environments, migration of database applications and data to Linux systems, support for Linux-based cluster computing, server consolidation, and a 24-hour technical engineering support line.
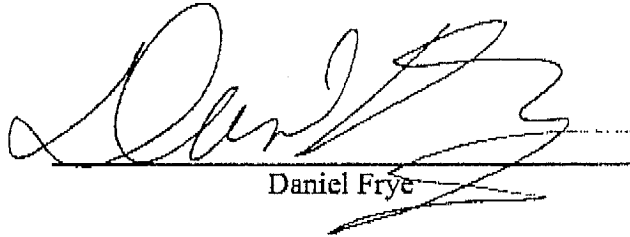
8.   In connection with its Linux activities, IBM reproduces Linux and makes Linux available to others, both in developing and providing hardware, software and services for customers, and for other, internal business purposes.

9.   Finally, many IBM employees—particularly those who work in the IBM Linux Technology Center—use Linux as their platform for day-to-day business computing, running office productivity applications, developing software (including Linux itself), and exchanging e-mail.

10. I declare under penalty of perjury that the foregoing is true and correct.

Executed: May 1ℱ, 2004

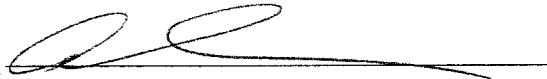Beaverton, Oregon

_____
Daniel Frye

CERTIFICATE OF SERVICE

I hereby certify that on the 18[h] day of May, 2004, a true and correct copy of the foregoing

was sent by U.S. Mail, postage prepaid, to the following:

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