EXHIBIT 598

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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF UTAH

THE SCO GROUP, INC.,

Plaintiff/Counterclaim-Defendant,

v.

INTERNATIONAL BUSINESS MACHINES CORPORATION,

Defendant/Counterclaim-Plaintiff.

DECLARATION OF RALF FLAXA

Civil No. 2:03CV-0294 DAK

Honorable Dale A. Kimball

Magistrate Judge Brooke C. Wells

I, Ralf Flaxa, declare as follows:

1. I was employed at Caldera, Inc ("Caldera") on a freelance basis from November 1995 until October 1997. I was then a full-time Caldera employee from November 1997 until June 2002. I served as a Director of Caldera's Linux development team in Erlangen, Germany.

2. I am currently employed as Director, Project Management for SUSE Linux, a wholly owned subsidiary of Novell, Inc., in Nuremberg, Germany.

3. I am knowledgeable in English, but German is my native language.

4. This declaration is submitted in connection with the lawsuit brought by The SCO Group, Inc. ("SCO") against IBM, titled 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.

5. Prior to the start of my employment with Caldera, Stefan Probst, myself, and others were involved in a business called LST where we developed a Linux distribution known as LST.

6. In approximately late 1994 to early 1995, Caldera approached LST to use the LST Linux distribution. At that point, I began working for Caldera as a contractor. LST worked with Caldera for two years.

7. Caldera based its Caldera Network Desktop and Caldera OpenLinux products on the LST Linux distribution and its installer technology.

8. Caldera acquired LST in 1997, forming a German corporation called Caldera Deutschland GmbH. Stefan Probst and I were Directors of Linux Development and had both

people and budget responsibility for Caldera Deutschland GmbH, a wholly owned subsidiary of Caldera.

Power Linux

9. Mr. Probst and I authored a book entitled Power Linux. This book was originally written in German based on our personal knowledge and was published by Springer-Verlag Berlin Heidelberg in 1997. In this book, we provided a general description of the Linux operating system, and a start-up guide for the LST Linux distribution (i.e., how to install, configure and start up the LST Linux operating system), and included two compact discs containing the LST distribution.

10. Power Linux was later translated into the English language. (Excerpts of the English version are attached as Ex. 1.) I was not involved in the translation process. However, the excerpts cited below in Paragraphs 11-15 are correctly translated as best I can determine as a non-native English speaker.

11. The book noted that Stefan Probst and I "developed Linux systems and software for Caldera in the USA". (Ex. 1 at ii.)

12. In Power Linux, we recognized that Linux was a UNIX standard-compliant operating system that followed the POSIX standards and other standards applicable to UNIX distributions: "Support of common standards means that Linux is to a great extent POSIX compatible and follows Unix traditions in almost every area. The benefits are the simple integration of Linux systems into existing Unix computer networks and the easy transfer of software to the Linux platform". (Ex. 1 at 3.)

13. In Power Linux, Mr. Probst and I noted that Linux largely included functional elements required to support the UNIX standards: "Many efforts have already been made to transfer important standards from the Unix world to Linux. Already there are Linux systems certified to the POSIX.1 standard. Some of the required changes are already integrated in the Linux 2.0 kernel, and one can expect that the kernel will fully support POSIX.1". (Ex. 1 at 4.)

14. In Power Linux, we referenced the efforts undertaken by Caldera to pursue UNIX certification for Linux: "Caldera Inc. in Utah, USA is striving for Unix certification of Linux by 1997. Unix certification will definitely help Linux on the road to success. One will hear more on that subject in the near future within the frame of the 'Caldera Open Linux' development". (Ex. 1 at 5.)

15. In Power Linux, we noted that: "Though Linux cannot yet be embellished with the name Unix, it does in fact provide almost everything available in an official Unix release". (Ex. 1 at 8.)

Caldera Involvement in Linux Standardization

16. Caldera was involved in Linux standardization efforts, including the Linux Standard Base ("LSB"), when I began my employment.

17. LSB is a joint project by several GNU/Linux distributions under the organizational structure of the Free Standards Group to standardize the internal structure of Linux-based operating systems. The LSB is based on IEEE's POSIX specification, the Open Group's Single UNIX Specification, and several other open standards.

18. The goal of the LSB is to develop and promote a set of standards that will increase compatibility among Linux distributions and enable software applications to run on any compliant system.

19. Caldera, and particularly its CEO Ransom Love, was very active in the LSB and believed that the establishment of a standard interface was crucial to the future of both Linux and Caldera.

20. The LSB project was reorganized in 1998 into three technical sub-committee projects of equal importance, with each sub-committee having a technical lead. I was the technical lead for the LSB's Sample Implementation sub-committee, and held this position simultaneous with my employment at Caldera. Caldera's OpenLinux product was used as the basis for creating a sample implementation for the LSB.

21. I also served as the chief representative from Caldera to the LSB, and among my job responsibilities was to pursue LSB compliance for Caldera's Linux products.

Caldera's Contributions to Linux

22. Caldera employees made several important contributions to Linux in the course of their employment with the company.

23. For example, one of Caldera's key contributions to Linux included IPX. Several Caldera engineers are credited in the CREDITS file in the Linux kernel source with contributions, including Jim Freeman, Greg Page, and Ron Holt.

24. Caldera also played a key role in convincing partners to contribute to Linux. Largely as a result of these efforts, Caldera engineers and I have been recognized within the Linux CREDITS files.

United Linux

25. Caldera was the main driver of the formation of the UnitedLinux project. I was the Project Manager for Caldera and coordinated the company's involvement in United Linux. In this role, I was very familiar with the contents and features of UnitedLinux.

26. Caldera wanted UnitedLinux to have most all of the capabilities of UNIX.

27. Caldera knew exactly what was in the UnitedLinux code. The company's engineers, including myself, were very familiar with what was in Linux and knew what code and technologies were included.

SCO's Allegations

28. I understand that SCO claims that certain materials in Linux infringe SCO's alleged intellectual property, specifically: header files required by the Open Group's Single Unix Specification (SUS), header files relating to the Streams technology, and files and specifications relating to the Executable and Linking Format (ELF).

29. While employed at Caldera, I was aware that this material was present in Linux. I know so because of my familiarity with Linux and also because Caldera incorporated it into its Linux products.

30. Caldera distributed significant parts of its Linux products under the GNU General Public License (GPL).

31. Caldera sought to assist Linux in achieving technological equality with UNIX as quickly as possible.

I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct.

Executed: September 25, 2006.

Nuremberg, Germany

Ralf Flaxa

EXHIBIT 1

New concepts and methods

The price for all this convenience is that one may have to set aside the habits acquired from using other PC operating systems and come to terms with new concepts and procedures. You will probably enjoy forgetting the old habit of pressing the reset button to cure software problems. Discovering how well you can work with multitasking and multiple virtual terminals will undoubtedly be a real joy. You may be a little shy about programming now, but once you have seen how much you can achieve with a simple one line script program you'll be hooked. Linux provides exactly the right environment for becoming familiar with these concepts. Your investment is a little bit of time and the willingness to learn. Your reward is a great deal of fun and personal growth as you become more familiar with Linux.

1.1.1 The Performance Capabilities of Linux

Surely you have already heard of the many faceted benefits of Linux. We can list the most significant advantages so that you understand why one sees "Linux Inside" (Fig. 1.1) on PCs more and more often.

Fig. 1.1: Does your computer already have "Linux Inside"?

Real 32 bit multiuser multitasking operating system

- 32 bit multiuser multitasking operating system, therefore all programs are available exclusively as real 32 bit applications which utilise the features of the processor to the limit. The system works with real, pre-emptive multitasking, providing each individual process with its own virtual processor. In practice this means that several users can work on one computer simultaneously and that every one of them can use several programs at the same time, without one of them being favoured or the programs interfering with each other.[1]

Complete network function

- Complete network support based on the internet TCP/IP protocol, which means you can connect several Linux computers simply and share the resources (performance, hard disk space) of all computers within the network transparently.

[1] Naturally that applies only so long as the processor load is less than 100%. Under high system loads not even Unix can extract more computing performance.

- Linux recognizes almost all common file systems and can work with at least 12 of them. It is therefore possible to get access to the data of other operating systems. This is particularly useful when you want to use a heterogeneous network of DOS and Unix computers.

X Window graphical interface system

- Graphical interface with XFree86 X Window system, providing the actual X11R6.1 interface from MIT. X11 is the standard graphical interface of Unix, providing network-wide use of graphical resources transparently. This means you can call up the screen outputs (the windows) of an application from every computer on the network, regardless of which computer actually runs the program. In this fashion you can use applications running on other Unix computers (for example on a SUN Workstation).

Complete software development platform

- Comprehensive software development platform which provides the GNU gcc compiler suite, a powerful development system. GNU gcc demonstrates its strength by allowing you to build the complete Linux system with it. In addition many programming languages and programming aids available on the internet can easily be used on a Linux computer. The list of compilable, scripting, or interpreted languages is long so we can list only a few samples here. Note there are usually various flavours of each language and often there are interpreted versions of the compilable languages available. Compilable: C, C++, Objective C, Fortran, Lisp, Pascal, Modula-2, Modula-3, Oberon, Scheme, Prolog, Ada, Apl, Eiffel, Forth,... Interpreted: Awk, Perl, Python, Tcl,...

Support of Unix standards

- Support of common standards means that Linux is to a great extent POSIX compatible and follows Unix traditions in almost every area. The benefits are the simple integration of Linux systems into existing Unix computer networks and the easy transfer of software to the Linux platform.

GNU software suite

- The complete GNU software suite means all tools and programs from the GNU software project are available under Linux. Linux is therefore the de facto GNU operating system.[2]

Even if you can't follow some of the terms we are using at the moment, you will get a feeling for their meaning shortly and learn how best to draw on the benefits they imply.

[2] Initially the Free Software Foundation (FSF) planned for HURD to become the free GNU operating system. But after Linux integrated the complete GNU software within a very short time, HURD was no longer necessary and so, at least in practice Linux took the place of HURD.

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1.1.2 Linux 2.0

Linux is well on its way to fame with the very comprehensive version 2.0.x release you have in your hands.

Next version

The big step from version numbers 1.2 to 2.0 is mainly due to the fact that Linux now supports not only its original development platform, the intel based PC, but also a large number of additional hardware platforms. It is only a matter of time until complete, comprehensive, and stable systems like POWER LINUX will be available for other platforms.

New hardware platforms

In addition to the broad hardware support many drivers have been improved, and many new ones added. The network support has been completely worked over. This shows clearly in extended functioning and further improved performance. Figure 1.2 shows the new Linux logo which won the Linux 2.0 logo competition.

New drivers

Fig. 1.2: The new Linux 2.0 logo.

Modularised kernel

The installation of Linux 2.0 offers new possibilities too. Kernel modules (drivers which are loadable when the system runs) are supported in a logical manner, as well as a so-called "initial ramdisk". This makes required modules available after the start of the kernel and makes it possible to start the system directly after the installation without rebooting.

1.1.3 Standardization

Standardisation

Many efforts have already been made to transfer important standards from the Unix world to Linux. Already there are Linux systems certified to the POSIX.1 standard. Some of the required changes are already integrated in the Linux 2.0 kernel, and one can expect that the kernel will fully support POSIX.1. The next step will be the XPG4 certification for Linux systems.

Caldera Open Linux

Caldera Inc. in Utah, USA is striving for Unix certification of Linux by 1997. Unix certification will definitely help Linux on the road to success. One will hear more on that subject in the near future within the frame of the "Caldera Open Linux" development.

National Language Support

There, in connection with internationalisation, National Language Support (NLS) will be added. The aim is to create a universal Linux system supporting the local customs of the user's own country. The scope of NLS ranges from formatting dates, time, and currencies in the local style, providing program text (e.g. menus and messages) in the appropriate language, and translating manual pages.

You may be familiar with the simplest of these problems if you have ever tried to adapt an English Linux version to German features (i.e. the extended character set and keyboard layout).

1.2 POWER LINUX

Linux Support Team

The POWER LINUX system before you is derived from the LST (Linux Support Team) distribution. LST is an independent German development, which has its roots at the University of Erlangen-Nuremberg. Some fundamental changes have been introduced with the creation of version 2.2 from LST:

Software packag management

- all software can be installed, removed, and updated using software management tools that work with the **rpm** package format;
- complete conversion to ELF;[3]
- compatibility with Caldera and Red Hat Linux;
- orientation to the development of Caldera OpenLinux.

Easy integration of commercial components

These reforms are due to an open and future-orientated development. It is true that certain habits have to be given up, but users will gain the possibility of using software components from the ever more popular Linux systems, Caldera OpenLinux and Red Hat Commercial Linux. For the most part these additional components can be used in the existing system without major conversions.

If you want, for example, to use WordPerfect (Fig. 1.3) or Corel Draw for Linux, you will find these applications available in **rpm** package format and for easy integration into your system.

tgz is still supported

Of course, POWER LINUX still supports the **tgz** package format used till now. It is still the main format used at the great Linux software archives such as sunsite.unc.edu and tsx-11.mit.edu.

[3] ELF - Executable and Linking Format

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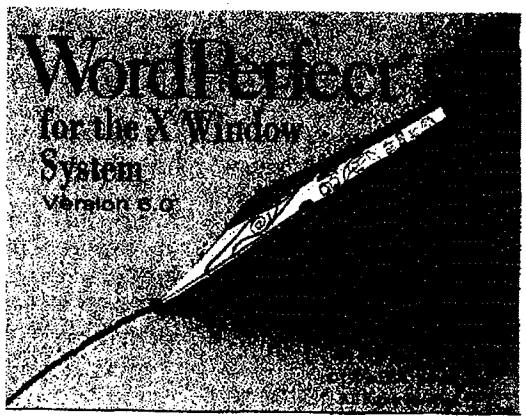

Fig. 1.3: Word Perfect for Linux.

LST Software GmbH

The development of LST is beeing continued by LST Software GmbH in Erlangen, Germany and POWER LINUX is based on Caldera OpenLinux Lite, the freely available version of Caldera OpenLinux.

1.2.1 LISA

Convenient Linux installations

In comparison to pioneering times, the installation of Linux systems has become much easier. Instead of getting a spartan input prompt (after a well meant "good luck!" message) and coping with further steps without manual or online help, one is now spoiled by convenient installation tools that simplify the decisions and knowledge of technical details formerly required of users.

These tools also help you avoid making serious mistakes during installation.

LISA

POWER LINUX offers you the LISA (Linux Installation & System Administration, Fig. 1.4) installation tool from LST, already familiar as the installation interface for the Caldera Network Desktop which is available worldwide.

LISA shouldn't present problems for users at any experience level. Nevertheless there is surely still enough material for this book, which will hopefully become a valuable companion for the installation and daily use of Linux. It should help you to find all the information you need allowing you to have as much fun in the daily use of Linux as we have had for years.

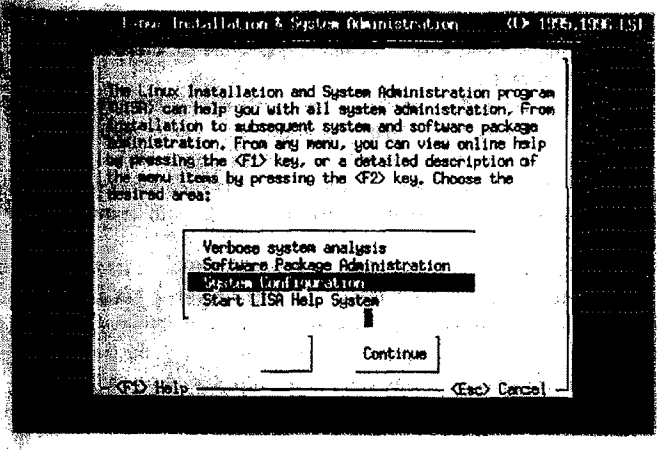

Fig. 1.4: The LISA main menu.

Initial aid

If you need additional literature on Linux that goes further than the initial aid of this book, we especially recommend the following book:

Linux Start-Up Guide

Written by Dr. Fred Hantelmann it is titled "Linux Start-Up Guide" and represents an excellent supplement to our own book. It too has been published by Springer-Verlag and is part of the Linux Power Pack. The ISBN is 3-540-62676-X.

1.3 General Information

Different knowledge

Due to the quite different levels in readers' knowledge, it isn't easy for us to fulfil the expectations of every reader to the same extent. The already experienced PC or Linux user will be rather more interested in detailed hints for the Linux system, whereas a PC beginner will probably want to get more information about the fundamental processes of his or her computer.

Comprehensive information

If in doubt, we have decided to cover the facts in greater detail since beginners, in comparison to more advanced users already familiar with the system, are much more dependent on comprehensive information about Linux. The experts will see, in any case, which sections they can pass over and the beginners will soon greatly appreciate the comprehensive information.

To work with Linux you must of course first install a Linux system. This normally proceeds without real problems, though some additional information is necessary in case there are initial difficulties.

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We will explain what to do in such a case and basically what occurs when starting a Linux system so that you have the background to better understand what happens.

Planning help

If you successfully booted with the installation disk and your hardware was correctly recognized, you are on the way to installation of your own Linux system. We will provide assistance with organizing your hard disk space, planning your individual Linux system to best meet your needs, and completing the installation with minimal difficulty.

The legendary "Unix"

After installing your new Linux system, you can dive into an exciting adventure with an operating system which may have been relatively unknown to you till now but whose benefits you surely have heard of: "Unix". Though Linux cannot yet be embellished with the name Unix, it does in fact provide almost everything available in an official Unix release.

Multiuser system

Unlike many of the PC operating systems you may have used in the past, Unix traditionally has been a multiuser system. Where previously you may have worked with such a system as a normal user, Linux now offers you the unique chance to gain practical experience as system administrator with unlimited access to the system. After all, it is your PC with which you can do whatever you want. Even if accumulated errors necessitate a new installation, on the whole you will have at least gained valuable experience.

Responsibilities of the system administrator

Imagine what would happen, if you, as system administrator, made a mistake within a Unix system used by many people every day. Initially, since you are probably the only user of your computer, a mistake will not affect anyone else. You can regard Linux as a big playground in which you collect valuable experience in the use and understanding of Unix and system administration.

The versatility of Linux

Of course, you can also use your Linux system as a serious production environment for software development, word processing, or as a private productive desktop. Figure 1.5 shows the launchpad, which supports your daily work with useful programs.

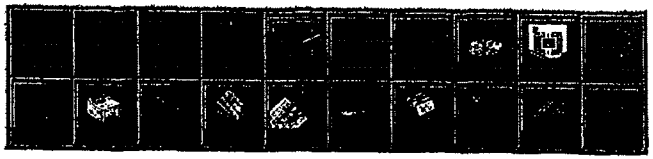

Fig. 1.5: The launchpad of POWER LINUX .

In Chapter 5 we delve into details about the different programs and applications provided with the system and give you some ideas how to best use them.

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