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International Business Machines Corporation

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF UTAH

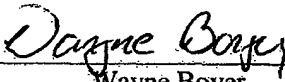|	
THE SCO GROUP, INC., Plaintiff/Counterclaim-Defendant, v. INTERNATIONAL BUSINESS MACHINES CORPORATION, Defendant/Counterclaim-Plaintiff.	**DECLARATION OF WAYNE BOYER** Civil No. 2:03CV-0294 DAK Honorable Dale A. Kimball Magistrate Judge Brooke C. Wells

I, Wayne Boyer, declare as follows:

1. I am currently employed by International Business Machines Corporation ("IBM") as a Software Engineer in IBM's Systems and Technology Group. I have worked for IBM since October 2000.

2. 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.

3. I understand that SCO has alleged that an "IBM Unknown Person" disclosed Software Product Integration and Evaluation ("SPIE") tests to the Linux Test Project ("LTP"). I authored a number of the referenced LTP tests. None of them was part of the Dynix/ptx operating system.

4. All of the LTC tests referenced by SCO, including those that I contributed to Linux, were original IBM or Sequent works. They did not include any Unix System V material; they were not modifications or derivative works of Unix System V; and they were not written with reference to Unix System V. Testing technologies were not part of the Unix System V operating system.

5. The purpose of the SPIE tests and the LTP tests is to test publicly available POSIX system calls that are common to all UNIX-like operating systems. These tests do not include any kernel source code, nor do they require knowledge of or reference to kernel source code to develop.

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6.   I did not refer to or use any System V code, methods or concepts in developing any of the testing technologies that were contributed to Linux. Rather, all of the testing technologies are based on the publicly available POSIX standards.

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

Executed: September *11*, 2006.

Beaverton, Oregon

<u>*Wayne Boyer*</u>
Wayne Boyer