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*Attorneys for Defendant/Counterclaim-Plaintiff  
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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  
MARC CHRISTENSEN**

Civil No. 2:03CV-0294 DAK

Honorable Dale A. Kimball

Magistrate Judge Brooke C. Wells

I, Marc Christensen, declare as follows:

1. I was employed at Caldera, Inc. ("Caldera") from October 1999 through May 2002. I served as a Software Engineer.
2. I am currently employed as a Software Engineer for Novell, Inc. ("Novell") in Provo, Utah
3. 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.

#### **Caldera's Linux Business**

4. Caldera was founded as a Linux company in 1994.
5. Caldera distributed a variety of Linux products, including Caldera Network Desktop and Caldera OpenLinux.
6. Caldera made various contributions to Linux and to the open source community generally, including being an early sponsor and architect of the Redhat Package Manager (RPM), making early contributions to the development of various kernel drivers (including Ethernet and Frame Relay), helping to make patches to streams available to the Open Source community, and providing manpower and funding to vendor-neutral initiatives such as Linux Standard Base.
7. I was personally involved with several Linux projects while at Caldera, including packaging of open source software and integration of third party products and coordinating patches between vendors.

#### **Caldera's Involvement in Linux Standardization**

8. Caldera participated in the Linux Standard Base (LSB).
9. The purpose of LSB was to define the common core of components that can be expected to be found in any "Linux" system.
10. Compliance with the LSB requires that the Linux distribution contain material explicitly specified by the LSB, as well as material required by other UNIX standards to which the LSB refers.
11. 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).
12. While employed at Caldera, I was aware that all of this material was present in Linux. I know that this material was in Linux because Caldera incorporated it into its Linux products.
13. Caldera knowingly distributed its Linux products under the GNU General Public License (GPL). Caldera made available all source information, with GPL notices, to all persons purchasing or downloading its general Linux kernel products and associated header files. Caldera did a review of all licenses for packages within its Linux products, including GPL licenses, and created an end-user license agreement that was presented to all users prior to installation of the Caldera Linux product.
14. Caldera sought to assist Linux in achieving technological equality with UNIX as quickly as possible.

#### **Caldera After the Santa Cruz Acquisition**

15. In May 2001, Caldera purchased the Server Software and Professional Services Divisions of Santa Cruz. Included in these Divisions was Santa Cruz's UNIX-related business.
16. The CEO of Caldera at that time was Ransom Love. Mr. Love stated that Caldera would pursue the merging of UNIX technology and Linux. I recall being present in company meetings where Mr. Love discussed his plan to use the value of the UNIX-related business that Caldera purchased from Santa Cruz in order to improve Linux by making it more reliable, powerful and "enterprise hardened".
17. While employed at Caldera, I never received training in intellectual property, including how to protect any rights of Caldera and Santa Cruz or how to avoid infringing intellectual property rights of third parties.

#### **UnitedLinux**

18. Caldera was the main driver of the formation of the UnitedLinux project. In May 2002, Caldera and other Linux vendors including Connectiva, SuSE and TurboLinux announced the organization of UnitedLinux to streamline Linux development and certification around a global, uniform distribution of Linux for business. UnitedLinux released its first Linux distribution, UnitedLinux Version 1.0, in November 2002.
19. UnitedLinux Version 1.0 contained the SUS header files, ELF/SVID interface specifications, and SMP capabilities. I know this because I had CDs of UnitedLinux Version 1.0 that contained the header files and other capabilities associated with ELF/SVID and SMP. Caldera ultimately included these in its UnitedLinux distribution.
20. Caldera knew exactly what was in the UnitedLinux code. The company's engineers were very familiar with what was in Linux and knew what code and technologies were included. Caldera wanted UnitedLinux to have most all of the capabilities of UNIX.

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

Executed: September 19, 2006.

Provo, Utah

  
Marc Christensen