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SNELL & WILMER L.L.P.
Alan L. Sullivan (3152)
Todd M. Shaughnessy (6651)
Amy F. Sorenson (8947)
15 West South Temple, Suite 1200
Salt Lake City, Utah 84101-1004
Telephone: (801) 257-1900
Facsimile: (801) 257-1800

CRAVATH, SWAINE & MOORE LLP
Evan R. Chesler (admitted pro hac vice)
David R. Marriott (7572)
Worldwide Plaza
825 Eighth Avenue
New York, New York 10019
Telephone: (212) 474-1000
Facsimile: (212) 474-3700

Attorneys for Defendant/Counterclaim-Plaintiff
International Business Machines Corporation

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF UTAH

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

I, David Mazieres, declare as follows:

1.   I am an Assistant Professor of Computer Science, and, by courtesy, of Electrical Engineering at Stanford University, and am also on leave from a position as an Associate Professor of Computer Science at New York University's Courant Institute of Mathematical Sciences. In these positions, I am responsible for research and teaching in the field of computer science, with a specialty in computer operating systems.

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 received an A.B. with honors in Computer Science from Harvard University, and a Masters and Ph.D. in Electrical Engineering and Computer Science from the Massachusetts Institute of Technology.

4.   Historically, important commercial software has been developed by companies that have made very large investments in the development process, and have commonly sought to recoup that investment through licensing fees.

5.   As computer systems have continued to grow in power, and the functions demanded of software, such as operating systems, have grown ever more complicated, the investment required to develop and bring to market these complex new software products has skyrocketed, while the difficulty of making these systems reliable and "bug free" has likewise escalated.

6.   The "Free Software" movement introduced a radically new model of software development, and of compensation for investments in development. This model was pioneered by Richard Stallman and the Free Software Foundation ("FSF") and was made

possible by the creation of the GNU General Public License or "GPL". At a high level, the paradigm of "free" software under the GPL is that copyright owners make their source code available to others to modify and use on a royalty-free basis. In exchange, any licensees who further distribute the code, and in particular modified versions of the code, must also do so on a royalty-free basis. This requirement allows the original copyright holder to incorporate other people's improvements and additions to the software while still distributing it on a royalty-free basis.

7.   Whatever one might have predicted in advance, in practice this new licensing paradigm has unleashed an unprecedented wave of global, collaborative software creativity, as networks of developers with no commercial affiliations with each other continually contribute improvements and "bug fixes" to free software packages.

8.   Some well-known software packages distributed under the GPL (and the similar "Library GPL" or LGPL license) are the Linux kernel, and the GNU C library (glibc). The source code of these packages includes the following header files: "errno.h", which assigns error numbers; "string.h", which declares functions that manipulate strings of characters (the universal computer term for sequences of text characters); and "ipc.h", which facilitates inter-process communications.

9.   These files, as well as the rest of the Linux operating system, have been distributed under the terms of the GPL by SCO and its predecessors in its various Linux products. Nevertheless, SCO, in its December 22, 2005, "Disclosure of Material Misused by IBM", alleges that Linux infringes Unix System V. I understand these allegations to be made in diagrams that attempt to identify allegedly infringed lines of System V (the "Disputed Code") by drawing red lines to corresponding lines of Linux kernel code.

10.   SCO's Linux product "SCO Linux Server 4.0 powered by UnitedLinux 1.0" was distributed with GPL notices. Based on my review of SCO's Final Disclosures, dated December 22, 2005, SCO Linux Server 4.0 includes all of the Disputed Code. Furthermore, SCO's product includes all but one line of the allegedly infringed content in the "Open Group Header Files" category (Final Disclosure Items 183-84, 205-31), the entire "Misc" category (Final Disclosure Item 185), and all lines of elf.h Disputed Code (Final Disclosure Item 272). SCO Linux Server 4.0 additionally contains much of the allegedly infringed "Streams (LiS) Header Files" code (Final Disclosure Items 150, 152-155, 157-159, 160-161, 162-164).

11.   Another SCO Linux distribution, Caldera OpenLinux 3.1.1, which was distributed with GPL notices, contained all of the Disputed Code except for that cited in Item 185. Additionally, all of the allegedly infringed header file code in the "Open Group Header Files" category (Final Disclosure Items 183-84, 205-31), all of the elf.h Disputed Code (Final Disclosure Item 272) , and code from every single allegedly infringed Streams header (Final Disclosure Items 150-64).

12.   Over the course of multiple SCO Linux product releases, SCO distributed to its customers, including IBM, every line of Disputed Code.

13.   On August 11, 2006, I downloaded a file called "/pub/skunkware/contrib-3.1.1-10-20011130.iso" from SCO's publicly accessible online server, "ftp.iso.caldera.com". This file was an ".iso" image of a Linux distribution CD from which an actual CD could easily be made. The file contained code from a SCO Linux Distribution, which included GPL notices.

14.   The SCO Linux code that I downloaded from SCO's server includes the 2.4.12 Linux kernel and 0.7.0 version of libelf. This code was contained within the

"EXTRA/SRPMS/linux-2.4.12-1col.src.rpm and SPRMS/libelf-0.7.0-1col.src.rpm" files that I was easily able to extract from the ".iso" CD image that I had downloaded.

15.   The code that I downloaded contained code from many of the Items that SCO alleges infringe on its claimed copyrights, including claimed SUS Material, Streams Material, and ELF Material (Final Disclosure Items 150, 152-153, 157, 158, 160, 161, 163, 164, 183, 184, 209, 210, 212-214, 217, 218, 220, 221, 225, 228, 272). The code I downloaded included lines of code from all but three files containing Disputed Code, including every line of Disputed Code relating to ELF.

16.   Also included in this Linux distribution that I downloaded from SCO's public servers on August 11, 2006 were Linux files with IBM copyrights relating to support for the PowerPC64 and S390 hardware architectures and mwave modem support. I determined this simply by searching for every file that contains the word "Copyright" followed by the words "IBM Corporation".

17.   SCO's first Linux product was Caldera Network Desktop, which was based on the Linux 1.2.13 kernel. This Linux kernel included SUS Material, Streams Material and ELF Material claimed by SCO (Final Disclosure Items 152, 157, 162, 164, 183, 184, 208-10, 212-14, 218, 221, 223, 228, 230, 231, 272), including code from all but three files containing Disputed Code.

18.   Even to this day, SCO appears to be running websites off of servers running the Linux operating system. For example, by entering "www.sco.com" into the "What's that site running?" query at http://news.netcraft.com, one can see that Linux is the most likely operating system for SCO's web server.

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

Executed: September 23, 2006.

Location: Stanford, California

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DAVID MAZIERES