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*Attorneys for Defendant/Counterclaim-Plaintiff
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 BEN RAFANELLO

Civil No. 2:03CV-0294 DAK

Honorable Dale A. Kimball

Magistrate Judge Brooke C. Wells

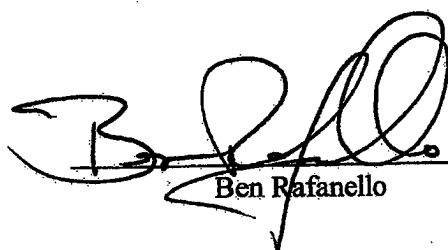
I, Ben Rafanello, declare as follows:

1. I am currently employed by International Business Machines Corporation (“IBM”) as a Senior Software Engineer for the Systems & Technology Group. I have worked for IBM since 1994.
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 in Item 1 of its Final Disclosures that I disclosed the “AIX JFS Journaling File System” to Linux. I did not.
4. In 1999, I joined the Linux Technology Center (“LTC”) working on the JFS team. IBM has contributed certain JFS code to Linux from IBM’s OS/2 operating system, not from AIX.
5. To the best of my knowledge, the JFS code that IBM contributed to Linux was original IBM work; it did not include any System V code; it was not a modification or derivative work of System V or based on System V; and it was not written with reference to System V. I believe that IBM’s contributions to JFS for Linux during my tenure on the project were based on the creativity and general programming experience of IBM’s programmers, including myself.

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

Executed: September ~~12~~ 2006.

Austin, Texas



Ben Rafanello