

***251***

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.,

Plaintiff/Counterclaim-Defendant,

v.

INTERNATIONAL BUSINESS MACHINES  
CORPORATION,

Defendant/Counterclaim-Plaintiff.

**DECLARATION OF CALVIN GAISFORD**

Civil No. 2:03CV-0294 DAK

Honorable Dale A. Kimball

Magistrate Judge Brooke C. Wells

I, Calvin Gaisford, declare as follows:

1. I was employed at Caldera, Inc. (“Caldera”) from November 1999 to May 2002. I served as a Software Engineer, and also for a period as Manager of the team working on Volution.

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..

**Caldera’s Linux Business**

3. Caldera distributed a variety of Linux products, including Caldera Network Desktop and Caldera OpenLinux.

4. I was personally involved with Linux projects while at Caldera, including Volution.

5. Volution Manager was a systems management product that was developed to manage Caldera OpenLinux, and also supported multiple other Linux distributions, including SuSE, RedHat, and others.

6. Caldera never had any intention of using Volution with UNIX until after Caldera acquired certain UNIX assets from the Santa Cruz Operation, Inc (“Santa Cruz”). After that acquisition, Caldera attempted to rejuvenate the outdated UNIX products that it received from Santa Cruz. I made a proposal to Ransom Love and other members of Caldera’s senior

management to continue developing Volution for Linux, but was told that I should instead focus on porting Volution to UnixWare and OpenServer.

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

7. Caldera participated in the Linux Standard Base (LSB). In fact, LSB might not have existed were it not for Caldera. At the time, RedHat was the dominant market leader among the commercial Linux distributions, and its Linux was becoming the de facto industry standard. Caldera saw LSB as a means of leveling the playing field by creating an official published standard and took a leading role in its establishment.

8. The purpose of LSB was to define the common core of components that can be expected to be found in any "Linux" system. 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.

9. Caldera promoted the LSB and its goal was for its Linux products to be LSB compliant.

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

10. In May 2001, Caldera purchased the Server Software and Professional Services Divisions of Santa Cruz. Included in this acquisition were Santa Cruz's UNIX assets.

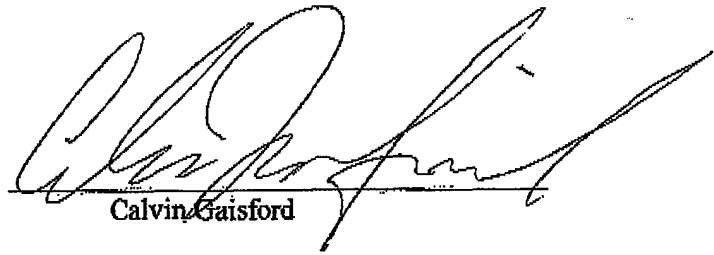
11. The CEO of Caldera at that time was Ransom Love. Mr. Love stated that Caldera would pursue the merging of UNIX technology into Linux. I recall being present in company meetings where Mr. Love discussed his plan to take the value of the UNIX assets that Caldera purchased from Santa Cruz and put it into Linux, including using code from UNIX to improve Linux by making more reliable, powerful and "enterprise hardened".

12. While employed at Caldera and SCO, I do not recall receiving training in intellectual property, including how to protect the rights of Caldera and SCO or how to avoid infringing intellectual property rights of third parties.

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

Executed: September 22, 2006.

Orem, Utah .



Calvin Gaisford