253

Alan L. Sullivan (3152)
Todd M. Shaughnessy (6651)
Snell & Wilmer L.L.P.
15 West South Temple, Suite 1200
Gateway Tower West
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)
Thomas G. Rafferty (admitted pro hac vice)
David R. Marriott (7572)
Worldwide Plaza
825 Eighth Avenue
New York, NY 10019
(212) 474-1000

*Attorneys for Defendant International Business
Machines Corporation*

UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

THE SCO GROUP, INC., a Delaware corporation,	
Plaintiff/Counterclaim-Defendant,	Civil No. 2:03CV-0294 DAK
-against-	
INTERNATIONAL BUSINESS MACHINES CORPORATION, a New York corporation,	Honorable Dale A. Kimball
Defendant/Counterclaim-Plaintiff.	

- 1 -

DECLARATION OF THOMAS ROEHR

I, Thomas Roehr, declare as follows:

1.   I am currently employed as a technical integrator for Physicians Mutual Insurance Company, located in Omaha, Nebraska. As a technical integrator, I take various components of UNIX, with which I have had experience for approximately 17 years, and compile them into a uniform operating system.

2.   This declaration is submitted in connection with the lawsuit filed by The SCO Group against International Business Machines Corporation, known as SCO v. IBM, Civil Action No. 2:03CV-0294 DAK (D. Utah 2003). Except as stated otherwise, this declaration is based upon personal knowledge.

3.   In 1993, while employed by Datanomics, an independent computer and internet technology consulting firm, I purchased two Sun 4/280 computer systems from CBM of America ("CBM"), a computer reseller. I paid a total of $800 for both computer systems, which I understand had been used at the Bell Labs site in Whippany, NJ.

4.   While at CBM's workshop, I powered up the computers to be sure they were working properly. One of the computers appeared to contain the entire UNIX source code. Mr. Bucco, who I understood had previously worked at Bell Labs, confirmed that the computer was equipped with the full UNIX source code. Mr. Bucco informed me that Bell Labs had left the code on the machines when he acquired them "as is" from AT&T, which he stated happened not infrequently.

5.   Once I had the computers home, I more fully explored the source code and confirmed it to be the source code for UNIX System 5, Release 4. Over the next year, I studied the UNIX kernel using the source code to improve my knowledge of Unix internals.
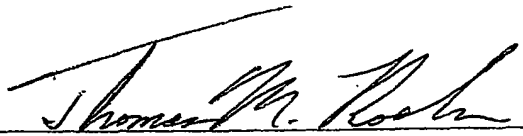
6.   In 1994, I sold the Sun 4/280 hard drives for $400. The man I sold the hard drives to made me a copy of the source code that was located on the drives.

7.   In 1995, I was working for Brooks Brothers' Internet Technology Department, and also doing some part time consulting work, on the side. It was in my capacity as a consultant that I became aware of a project being considered by Bell Atlantic involving UNIX. In connection with my preparing a bid for the project, I was provided with a set of 9-track tapes which contained the entire source code for UNIX System 5, Release 2. Ultimately, Bell Atlantic decided to scrap the project. However, I was never asked to return the tapes.

8.   In neither instance described herein was I ever told that the UNIX source code was confidential information and should be kept confidential. Nor was I ever advised that I was prohibited from disclosing, selling, trading, modifying, or otherwise using the code in any manner. I was not required to sign a confidentiality or non-disclosure agreement, and I understand that I was and am lawfully permitted to use and disclose the source code as I wish.

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

Executed: August 3?, 2003.
Omaha, Nebraska

_____
Thomas M. Roehr
Thomas Roehr