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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 LINUS TORVALDS

Civil No. 2:03CV-0294 DAK

Honorable Dale A. Kimball

Magistrate Judge Brooke C. Wells

DECLARATION OF LINUS TORVALDS

I, Linus Torvalds, declare as follows:

1. I am currently a Fellow at the Open Source Development Lab. I am responsible for leading the development of Linux, which I pioneered beginning in 1991.
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. In 1991, as an undergraduate student at the University of Helsinki, I set out to create a new, free operating system, which later became known as "Linux".
4. I began developing the core of the operating system, known as the "kernel", and some months later posted news of my project to Internet newsgroups, inviting volunteers to assist me in my efforts.
5. With the Internet providing for a distributed collaboration, other programmers joined to create code making up the kernel. I directed the collaboration to a version 1.0 release of the Linux kernel in 1994 and have continued to maintain the kernel development since.
6. Linux is an "open source" program, which means, among other things, that its source code is publicly available, royalty-free, and users have the freedom to run, copy, distribute, study, adapt and improve the software.
7. Linux not only adheres to open standards, but is built and maintained by a worldwide group of engineers who share the common goal of making open systems and open source ubiquitous.

8. Anyone can freely download Linux and many Linux applications and modify and re-distribute them with few restrictions.

9. The Linux kernel is distributed under the GNU General Public License (GPL), which provides that a person receiving code under the GPL “may copy and distribute verbatim copies of the Program’s source code” and “modify [their] copy or copies of the Program or any portion of it.”

10. Prior to commencing this lawsuit, SCO and its predecessors were heavily involved in Linux development and promotion. But for their efforts, Linux would not have progressed as rapidly as it did to become an enterprise ready operating system.

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

Executed: 9/21/06

Location: Portland, OR



LINUS TORVALDS