Unknown

From:	Reg Broughton
Sent:	Tuesday, August 13, 2002 10:05 PM
To:	Darl McBride
Subject:	Fwd: Re: Patents and IP Investigation

DARL

we can probably track down Bob Swartz if you want to dig further. Based on our last conversation, this summary of the code investigation probably closes that discussion.

This of course does not invalidate any of your statements on Caldera owning the central IP, and being the core provider of key technology and IP over the years into the UNIX and Linux communities.

REG

>Date: Tue, 13 Aug 2002 13:26:51 -0700
>From: Michael Davidson <md@caldera.com>
>Organization: Caldera International
>X-Mailer: Mozilla 4.6 [en] (Win98; I)
>X-Accept-Language: en
>To: Reg Broughton <regb@caldera.com>
>Subject: Re: Patents and IP Investigation
>
>The actual investigation itself was done by an outside consultant (Bob
>Swartz) hired by SCO. I worked with him and reviewed his findings.
>
>My recollection is that Bob produced an initial proposal for the
>project which outlined the methodology to be used, and he *may* have
>also provided a final report, but I don't have copies of either.
>
>The project was a result of SCO's executive management refusing to
>believe that it was possible for Linux and much of the GNU software to
>have come into existance without *someone* *somewhere* having copied
>pieces of proprietary UNIX source code to which SCO owned the
>copyright. The hope was that we would find a "smoking gun" somwhere in
>code that was being used by Red Hat and/or the other Linux companies
>that would give us some leverage. (There was, at one stage, the idea
>that we would sell licenses to corporate customers who were using Linux
>as a kind of "insurance policy" in case it turned out that they were
>using code which infringed on our copyright).
>
>Note that the scope of the project was limited to looking for evidence
>of copyright infringement (we didn't consider patents because SCO
>didn't own the rights to any patents, and more general IP issues were
>just too vague - besides SCO was *sure* that it was going to find
>evidence of copyright violations which are comparatively
>straightforward to prove once you have found them)
>
>An outside consultant was brought in because I had already voiced the
>opinion (based on very detailed knowledge of our own source code and a
>reasonbly broad exposure to Linux and other open source
>projects) that it was a waste of time and that we were not going to
>find anything.
>
>Bob worked on the project for (I think) 4 to 6 months during which time
>he looked at the Linux kernel, and a large number of libraries and
>utilities and compared them with several different vesrions of AT&T

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>UNIX source code. (Most of this work was automated using tools which
>were designed to to fuzzy matching and ignore trivial differences in
>formatting and spelling)
>
>At the end, we had found absolutely *nothing*. ie no evidence of any
>copyright infringement whatsoever.
>
>There is, indeed, a lot of code that is common between UNIX and Linux
>(all of the X Windows system, for example) but invariably it turned out
>that the common code was something that both we (SCO) and the Linux
>community had obtained (legitimately) from some third party.
>
>
>md
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