369

GLOBEANDMAIL.COM

Print this Page

Linux community scoffs at SCO's evidence

NEWS.COM

By Lisa M. Bowman and Robert Lemos
CNET

POSTED AT 11:41 AM EDT

Thursday, Aug. 21, 2003

As pictures of contested Linux code made their way around the Web, open-source enthusiasts scoffed at claims by SCO Group that the code shows it has legal rights over parts of the popular operating system.

On chat boards devoted to the OS, Linux supporters roundly condemned SCO, saying some of the code — showed off by the company earlier this week at its SCO Forum conference and later posted to the Web by a German computer magazine — actually dates from the 1970s and is covered under a BSD licence that allows the sharing of the code.

"Are these their best examples?" open-source leader and well-known Debian developer Bruce Perens asked during an interview Wednesday. "Their examples are bogus."

Lindon, Utah-based SCO sued IBM in March, claiming Big Blue illegally inserted SCO's Unix code into Linux. In a move that further roiled the open-source community, SCO sent letters to hundreds of Linux users, warning them of potential copyright violations.

At its annual users meeting in Las Vegas, SCO representatives presented a series of slides they said showed code that had been illegally inserted into the Linux kernel. German computer magazine Heise Zeitschritten Verlag subsequently posted pictures of the slides to its site. During later sessions at its conference, SCO also offered a more extensive peek at some code to people who had signed a nondisclosure agreement.

Mr. Perens said he had seen the slides on-line and had also gotten hold of the more detailed NDA (nondisclosure agreement) code. Some functions contained on the slides, he said, could have easily come from the BSD fork of Unix, a publicly available version of the code people are allowed to freely distribute under a special open-source licence. SCO claims that the disputed code comes from a proprietary version of Unix it acquired when it bought some Unix rights from Novell.

In a statement Wednesday, SCO said Linux supporters who claim the disputed code is open-source are incorrect.

"In fact, SCO knows exactly which version of Unix System V the code came from and which licensee was responsible for illegally contributing it to Linux," said Chris Sontag, general manger of SCOsource, the SCO unit charged with enforcing the company's intellectual-property rights.

Legally, SCO faces the burden of proving that the disputed code actually came from a proprietary version to which the company has the rights, not an open-source version. Legal experts said that may be a particularly challenging fight, because there has been so much sharing and swapping of code between the Linux and Unix communities.

"It makes it just a really tough burden of proof to prove that it's yours, when you're dealing with open-source stuff," said William Coats, a partner at Orrick, Herrington & Sutcliffe who is not involved in the case. "This isn't your typical case. SCO's sort of taking a flier on this whole thing, but there's lots of potential upside."

Mr. Perens also said SCO is showing code containing some memory-allocation functions that were originally covered under a BSD licence and were contributed by Silicon Graphics Inc. He said the code would have an impact on only about 100 machines around the world, because it only affects specific SGI machines running Linux. He said the code has been removed from future versions of Linux. SGI did not return calls seeking comment.

Mr. Perens also pointed to an example of packet filter code that SCO displayed, saying it too appears to be covered by an open-source licence that allows for sharing. And on his Web site, Mr. Perens posted a 2002 letter in which SCO, then known as Caldera International, put some older Unix code under an open-source license.

Michael Heise, a partner with Boies, Schiller & Flexner who's representing SCO, downplayed concerns that the contested code may be covered by an open-source licence. In an interview with CNET News.com at the SCO show, Mr. Heise said even if, hypothetically, some older Caldera code were open-source, it wouldn't make a difference to the case.

"Let's say you have 100 files, and you put one of your 100 files under the GPL [GNU General Public License]. That doesn't mean you've lost the rights to your other 99 files," Mr. Heise said. "So I don't think it's going to have an impact."

Bell Globemedia