

477

Software for the Open Enterprise™

United States - English

 search[Products & Solutions](#)[Services & Support](#)[Partners & Communities](#)[download](#)[> news > press room](#)

[Company Home](#)
[News](#)
[Media Resources](#)
[Blogs](#)

Press Release

1.800.529.3400
 local numbers

Request Call

N

Novell Challenges SCO Position, Reiterates Support for Linux

PROVO, Utah — May 28, 2003 — Defending its interests in developing services to operate on the Linux platform, Novell today issued a dual challenge to The SCO Group over its recent statements regarding its UNIX ownership and potential intellectual property rights claims over Linux.

First, Novell challenged SCO's assertion that it owns the copyrights and patents to UNIX System V, pointing out that the asset purchase agreement entered into between Novell and SCO in 1995 did not transfer these rights to SCO. Second, Novell sought from SCO facts to back up its assertion that certain UNIX System V code has been copied into Linux. Novell communicated these concerns to SCO via a letter (text below) from Novell® Chairman and CEO Jack Messman in response to SCO making these claims.

"To Novell's knowledge, the 1995 agreement governing SCO's purchase of UNIX from Novell does not convey to SCO the associated copyrights," Messman said in the letter. "We believe it unlikely that SCO can demonstrate that it has any ownership interest whatsoever in those copyrights. Apparently you share this view, since over the last few months you have repeatedly asked Novell to transfer the copyrights to SCO, requests that Novell has rejected."

"SCO claims it has specific evidence supporting its allegations against the Linux community," Messman added. "It is time to substantiate that claim, or recant the sweeping and unsupported allegation made in your letter. Absent such action, it will be apparent to all that SCO's true intent is to sow fear, uncertainty, and doubt about Linux in order to extort payments from Linux distributors and users."

"Novell has answered the call of the open source community," said Bruce Perens, a leading proponent of open source. "We admire what they are doing. Based on recent announcements to support Linux with NetWare services and now this revelation...Novell has just won the hearts and minds of developers and corporations alike."

Text of the letter from Novell to SCO:

Mr. Darl McBride
 President and CEO
 The SCO Group

Re: SCO's "Letter to Linux Customers"

Dear Dart:

As you know, Novell recently announced some important Linux initiatives. These include an upcoming NetWare version based on the Linux kernel, as well as collaboration and resource management solutions for Linux.

Put simply, Novell is an ardent supporter of Linux and the open source development community. This support will increase over time.

It was in this context that we recently received your "Letter to Linux Customers." Many Novell business partners and customers apparently received the same letter. Your letter compels a response from Novell.

As we understand the letter, SCO alleges that unnamed entities incorporated SCO's intellectual property into Linux without its authorization. You apparently base this allegation on a belief that these unnamed entities copied some UNIX System V code into Linux. Beyond this limited understanding, we have been unable to glean any further information about your allegation because of your letter's vagueness.

In particular, the letter leaves certain critical questions unanswered. What specific code was copied from UNIX System V? Where can we find this code in Linux? Who copied this code? Why does this alleged copying infringe SCO's intellectual property? By failing to address these important questions, SCO has failed to put us on meaningful notice of any allegedly infringing Linux code, and thus has withheld from us the ability - and removed any corresponding obligation - to address your allegation.

As best we can determine, the vagueness about your allegation is intentional. In response to industry demands that you be more specific, you attempt to justify your vagueness by stating, "That's like saying, 'show us the fingerprints on the gun so you can rub them off.'" (Wall Street Journal, May 19, 2003) Your analogy is weak and inappropriate. Linux has existed for over a decade, and there are plenty of copies in the marketplace with which SCO could attempt to prove its allegation.

We are aware that you recently offered to disclose some of the alleged Linux problems to Novell and others under a nondisclosure agreement. If your offer is sincere, it may be a step in the right direction. But we wonder whether the terms of the nondisclosure agreement will allow Novell and

others in the Linux community to replace any offending code. Specifically, how can we maintain the confidentiality of the disclosure if it is to serve as the basis for modifying an open source product such as Linux? And if we cannot use the confidential disclosure to modify Linux, what purpose does it serve?

In your letter, you analogize SCO's campaign against the Linux community to that of the record industry against major corporations whose servers contained downloaded music files. There are crucial differences between the two campaigns. The record industry has provided specific information to back up its allegation, while SCO steadfastly refuses to do so. In its allegation letter, the record industry provides evidence of allegedly infringing activity that is specific to the targeted company. This offers the company real notice of the activity, sufficient information to evaluate the allegation, and an opportunity to stop the activity if it determines the allegation is true. If SCO wants to compare its actions to those of the record industry, it should follow the example set by that industry and present specific evidence of the alleged infringement.

SCO claims it has specific evidence supporting its allegation against the Linux community. It is time to substantiate that claim, or recant the sweeping and unsupported allegation made in your letter. Absent such action, it will be apparent to all that SCO's true intent is to sow fear, uncertainty, and doubt about Linux in order to extort payments from Linux distributors and users.

This true intent becomes clearer when one considers various public statements you and other SCO personnel have made about SCO's intellectual property rights in UNIX. SCO continues to say that it owns the UNIX System V patents, yet it must know that it does not. A simple review of U.S. Patent Office records reveals that Novell owns those patents.

Importantly, and contrary to SCO's assertions, SCO is not the owner of the UNIX copyrights. Not only would a quick check of U.S. Copyright Office records reveal this fact, but a review of the asset transfer agreement between Novell and SCO confirms it. To Novell's knowledge, the 1995 agreement governing SCO's purchase of UNIX from Novell does not convey to SCO the associated copyrights. We believe it unlikely that SCO can demonstrate that it has any ownership interest whatsoever in those copyrights. Apparently, you share this view, since over the last few months you have repeatedly asked Novell to transfer the copyrights to SCO, requests that Novell has rejected. Finally, we find it telling that SCO failed to assert a claim for copyright or patent infringement against IBM.

SCO's actions are disrupting business relations that might otherwise form at a critical time among partners around Linux technologies, and are depriving these partners of important economic opportunities. We hope you understand the potential significant legal liability SCO faces for the possible harm it is causing to countless customers, developers, and other Linux community members. SCO's actions, if carried forward, will lead to the loss of sales and jobs, delayed projects, canceled financing, and a balkanized Linux community.

We, like others, are concerned about the direction of SCO's campaign. For now, we demand that SCO either promptly state its Linux infringement allegations with specificity or recant the accusation made in your letter. Further, we demand that SCO retract its false and unsupported assertions of ownership in UNIX patents and copyrights or provide us with conclusive information regarding SCO's ownership claims. In the future, we hope SCO will adhere to standards of strict accuracy when stating its rights in UNIX.

Sincerely,

Jack L. Messman
Chairman, President and CEO

About Novell

Novell, Inc. is a leading provider of information solutions that deliver secure identity management (Novell Nsure), Web application development (Novell exteNd) and cross-platform networking services (Novell Nteprise), all supported by strategic consulting and professional services (Novell Ngage). Novell's vision of one Net - a world without information boundaries - helps customers realize the value of their information securely and economically. For more information, call Novell's Customer Response Center at (888) 321-4CRC (4272) or visit <http://www.novell.com>. Press should visit <http://www.novell.com/pressroom>.

*Novell is a registered trademarks; Nsure, exteNd and Nteprise are trademarks; and Ngage is a service mark of Novell, Inc. in the United States and other countries. * All third-party trademarks are the property of their respective owners.*

Press Contact:

Gary Schuster
Novell, Inc.
Phone: (781) 956-9661