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Commentary: Will This Feud Choke the Life Out of Linux?

By raising national security concerns, software maker SCO's suit against IBM hampers the open-source movement

The \$1 billion lawsuit that SCO Group (**SCOX**) Inc. filed against IBM in March is turning into something akin to water torture. Every few weeks, there's a new allegation or announcement from the tiny Lindon (Utah) software company, provoking fears that it will enforce its intellectual property rights against sellers of the Linux computer operating system.

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Enough already. True, SCO should be free to protect its software, in this case core pieces of the Unix operating system upon which Linux is based. But its relentless approach to this case could cause irreparable harm to Linux – slowing or even halting its adoption by corporations. Linux is an increasingly popular open-source product, developed by thousands of independent and corporate programmers and given away free, though commercial versions are also for sale. With more than 25% of the market for server computer operating systems, Linux has emerged as the best hope for keeping competition alive in a corporate software market that could otherwise be dominated by Microsoft Corp. Companies need Linux to counterbalance Microsoft's Windows hegemony.

Fortunately, there may be a relatively painless solution: SCO could identify the pieces of Linux that it believes infringe on its rights. If it turns out that SCO's rights were violated, the open-source community could write replacements for those portions. Meanwhile, arbitrators or the courts could decide whether IBM violated its contracts with SCO and, if so, how much it owes in compensation.

Such an approach was successful once before. In 1992, a similar fight erupted between two camps backing early versions of Unix: the original AT&T (T) Bell

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SMALLBIZ

Labs program developed in the late 1960s, and a version developed at the University of California at Berkeley. The resolution allowed both flavors of Unix to flourish, says Jon Hall, executive director of trade group Linux International Inc.

But it looks like SCO is in no hurry to reach an accommodation. The more Linux spreads, the larger SCO's potential financial claim becomes. It asserts that Big Blue used copyrighted Unix software code, plus Unix expertise gained in a venture with SCO, to upgrade Linux. Then IBM began marketing Linux in workstations, servers, and supercomputers, boosting sales. And market share gains by Linux have come mostly at the expense of Unix.

SCO President Darl C. McBride says he'd consider replacement of the code, but warns it might not be practical: "When you find out how much code is infringing -- the amount is gargantuan -- it'd be a major challenge."

Linux advocates, including Hall, aren't sure that's true. They believe that some of the code SCO claims as its own may have come legally from other sources.

Meanwhile, SCO keeps turning up the pressure. On June 16, it amended its complaint in Utah's U.S. District Court, contending that IBM's Linux enhancements violate U.S. technology-export regulations. The new charges relate to Unix's ability to turn a cluster of PCs into a supercomputer powerful enough to use to develop nuclear missiles. Because of that capability, Washington must approve Unix sales to customers in such countries as Libya and North Korea. Now SCO is alleging that by transferring key Unix code to Linux and making it available to everyone over the Internet, IBM is violating the law.

If federal officials decide that Linux merits the same export controls as Unix, experts fear that could end development of Linux by the open-source community. An open-source tenet calls for all improvements to be posted on the Net.

SCO isn't waiting around for the feds before it throws a new dart. Next month, SCO will tell companies that use or distribute Linux, such as Red Hat Inc., that they need to buy a license, says McBride.

That means there's more water torture ahead. In the end, SCO may have a legitimate contract beef with Big Blue. But its tactics are taking too heavy a toll. Unless it wants to be remembered as the company that squelched competition in the corporate software market, it should identify the Unix code that it claims is in Linux so the issue can be resolved as quickly as possible.

By Otis Port

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