

SCO License Fees Would Hurt Linux Market

The SCO Group has copyrighted Unix System V and asked Linux customers to pay license fees or risk being sued for intellectual property (IP) infringement. Take a methodical and cautious approach to future Linux deployments.

Event: On 21 July 2003, SCO announced it received U.S. copyright registrations for Unix System V source code. SCO claims that its IP rights from UnixWare cover the latest kernel version of Linux, v.2.4, which includes code important in symmetric multiprocessing (SMP) scaling. SCO said it will offer UnixWare licenses to enterprises that use Linux 2.4 and later and will not sue Linux customers for past copyright violations if they buy a UnixWare license.

First Take: SCO claims that Linux 2.4 could not have achieved its SMP scaling capabilities without the illegal copying and misappropriation of its IP. In compensation, SCO expects Linux customers to negotiate a license agreement for the Unix binaries of UnixWare 7.1.3. SCO didn't specify a price, but Gartner estimates that a single unit license of UnixWare could cost from \$500 to \$700 per server, with discounts for volume deployments. The copyright registration follows SCO's May 2003 letter warning 1,500 firms using Linux that they could face legal action.

If SCO's action succeeds against a few large enterprises, other enterprises could start to negotiate license agreements, creating hybrid open-source and proprietary software contracts. If SCO can pressure enterprises to purchase SCO licenses or delay their purchases, the consequences for the market would include:

- Linux will have difficulties evolving beyond appliance and infrastructure roles, revitalizing Unix and boosting Microsoft.
- Red Hat and SuSE will have more difficulty generating enterprise server subscription fees since the total cost of ownership would rise by the cost of the SCO license fees.
- IBM will have to defend Linux and AIX, bring the litigation to a speedy head, and keep customers from re-evaluating purchase decisions.
- Oracle's 9iRAC for Linux will suffer a setback during its ramp-up phase.
- Independent software vendors could temporarily delay commitments and investments in Linux until the legal issues are resolved.
- Sun Microsystems can revitalize its marketing for Solaris while Dell's quest to become more important in the market's high end will slow.

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Recommendations:

- Contact SCO to discuss its claims, compensation requirements and your potential future liability.
- Organize a review board that audits and documents all Linux installations by kernel version and server roles.
- Delay deployments of application and database servers if they involve critical applications that must be unencumbered of IP infringement claims. You can fence off such systems from the license obligation if you have deployed Linux strictly for basic infrastructure roles (such as firewalls and simple Web servers) that do not require the 2.4 kernel or its SMP capability.
- Determine whether Unix or Windows will provide functions equivalent to those of Linux deployments.
- Investigate outsourcing, system integration or other relationships that transfer license issues to the third party.
- Don't ignore the problem by hoping IBM will win or settle its lawsuit (that could take a year or more). An IBM win would not prevent SCO from pursuing individual claims, which, if successful, could cost far more in penalties than buying a SCO license would. If you find SCO's case compelling and you use few instances of v.2.4, pay the license fees.
- While the actions by SCO are pending, take a go-slow approach to Linux in high-value or mission-critical production systems. Instead, keep pursuing your Unix and Windows strategies.

Analytical Source: George Weiss, Gartner Research

Recommended Reading and Related Research

- "SCO's Threat to Sue Linux Users Serious but Remote" — Although Gartner has reservations on the merits of the case, don't take it lightly. **By George Weiss**
- "SCO's Lawsuit Sends a Warning to Linux IS Shops" — Gartner believes that, depending on the outcome of the lawsuit, two communities may be at risk: AIX users and Linux users. **By George Weiss**

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