

SCO cleared for appeal in computer code case

Open source » Claims over Linux could be revived

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The Utah-based SCO Group has been cleared to appeal a court ruling that might lead to a revival of its dispute with IBM over copyright claims to the freely distributed Linux operating system.

Utah Federal Judge Dale A. Kimball has signed a final judgment in a case involving Novell, in which he had awarded Novell \$2.5 million for some of the revenues The SCO Group obtained in licensing the Unix computer operating system.

The judgment is the latest development in the case that began in 2003 when SCO sued IBM saying the Unix code that SCO claimed to own had been the basis for code placed in the Linux operating system. The changes made Linux commercially viable and placed it in direct competition with Unix, the sales of which began to decline, SCO claimed in filing the billion-dollar lawsuit.

The SCO Group filed a second lawsuit in January 2004 asserting that Novell, the former owner of Unix, was trying to interfere with its ownership of the Unix copyrights. But in 2007, Kimball ruled that Novell still owned the rights to versions of Unix prior to its sale in 1995, casting into doubt SCO's ability to claim copyright infringement over Linux.

SCO officials believe they can win an appeal of Kimball's 2007 ruling because, they argue, he prematurely ruled in favor of Novell when facts in the case were still in dispute.

A SCO spokesperson said Monday a notice of appeal would be filed within a few days. The case goes next to the 10th Circuit Court of Appeals in Denver.

The final judgment "reflects Judge Kimball's careful and thoughtful work," said Novell attorney Michael Jacobs of San Francisco. "Novell expects to prevail in the court of appeals."

The Kimball ruling last year forced Lindon-based SCO to seek bankruptcy court protection. It has until the end of the year to file a reorganization plan with the federal bankruptcy court in Delaware.

Linux is an open source project, which means that numerous people contribute to its source code, the backbone that allows computers to operate. Linux code is open and available for free to the public and companies, which can use it to make commercial products or create services to operate Linux-based systems.

Novell is a leading distributor of the Linux system for commercial operations.

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