

From: Mr. Harlan Wilkerson
<redacted>
Hutchinson, Kansas 67501
Ph: <redacted>

25 May 2004

Subject: Consumer Protection and Unfair Trade Practices - Computer Operating Systems

Dear Attorney General Kline,

Consumers and software developers that use the open source Linux® operating system are being harassed with threats of objectively baseless litigation. Those threats arise from the normal day-to-day use, copying, and redistribution of the collaboratively developed Linux® kernel source code. That code was contained in retail products that were available from many vendors including The SCO Group Inc., of Lindon Utah (SCO). That company and their predecessors-in-interest licensed and sold collections of Linux® software products for nearly a decade. Those products and trademarks were only licensed for their use under terms that permitted copying and royalty-free redistribution. Now SCO is accusing all Linux® source code distributors of innocent or willful infringement of the Digital Millennium Copyright Act – even their own properly licensed retail customers. In reality we are merely engaged in conduct that is privileged, fully justified and performed in the exercise of an absolute right under the terms of our existing software license agreements with SCO.

SCO's actions appear to be part of a scheme which is aimed at deriving unjust enrichment for their company and a their investors, while harming the market for a lower cost competing technology in the computer operating systems business.

The SCO Group is disclaiming any obligation to honor the terms of their existing software licenses, while mischaracterizing the intended uses of their products as copyright infringement. I believe that SCO's actions are precluded by our Kansas consumer protection statutes – particularly those that prohibit a vendor from disclaiming an implied warranty of merchantability (for example the use of the open source Linux® label) or depriving consumers of the material benefits of a transaction. Your assistance in enjoining this anticompetitive and unfair conduct on behalf of developers, researchers, and educators here in Kansas would be greatly appreciated.

Sincerely,
<signed>