Who Owns UNIX?

Caldera paid just $36 million for two divisions of the Santa Cruz Operation and their assets[1]. They claim that billions have been spent developing UNIX, without explaining that most of that funding was provided by the general public. SCO has even threatened Government users with litigation unless they purchase the "SCO Intellectual Property Licenses".[2] Unix was collaboratively developed by it's end-users (the public) and Bell Labs as an essential public facility for many years. In just one example, AT&T licensed-back publicly funded Berkeley Software Distribution (BSD) enhancements for use in their products as early as 1979. By 1993, The Regents of California claimed that as much as 50% of USL's System VR4 source code had been developed by Berkeley.[3] The Berkeley CSRG was part of a public trust whose source code was developed with funding supplied via gifts, grants, or contracts provided by the NSF, DARPA, DOE, NASA and others[4]. Under the terms of a 1956 DOJ Consent Decree, and the FCC Computer Inquiry I and II regulations, neither AT&T nor Western Electric could legally market UNIX as a product or service. AT&T was restricted to the common carrier business. UNIX was offered "as is" to universities and businesses with no technical support or bug fixes. Organizations could obtain a copy of the UNIX source code and a royalty-free license to produce derivative works by paying a $99 administration fee. Under the decree, Bell Labs was limited to doing research for AT&T or contract work for the federal government. AT&T conducted long-term research at Bell Labs. During those years AT&T had a government-granted franchised monopoly on the telephone industry. Its research expenditures were in effect a tax on consumers because they were simply included in AT&T's regulated rates for telephone service. AT&T's principle partners in operating systems research were MIT, Berkeley, and Carnegie-Mellon University. Those parties were all doing federally funded research too.

After the 1984 divestiture, AT&T was allowed to offer UNIX as a closed-source commercial product, and to sell their own computer hardware. In 1984, a Fortune magazine article noted that 750 universities around the world, about 80% of those offering computer science degrees, had a UNIX license. In a 1989 article "Can UNIX Survive Secret Source Code?", Mike Lesk, then a Bell Labs researcher, warned that cutting edge research shops would soon abandon UNIX if the source code couldn't be modified. Nonetheless in 1990 AT&T spun-off it's commercial UNIX assets and sold equity in the subsidiary to other companies like Novell. That commercialization led to many abuses. Research source code which was licensed from UC Berkeley for a one-time $500 or $1,000 fee was sub-licensed by Unix Systems Laboratories for as much as $200,000 per license. At the same time, USL held the licensees under contractual obligations of confidentiality in an attempt to preclude public access to the source code. For example, the trial record in USL v BSDi indicates that USL's expert could only find 186 lines of source code out of 1.7 million in the Regents Net2 which were substantially similar to USL's version of UNIX[5]. USL agreed to end the litigation when they couldn't establish that they owned a valid copyright in that source code. Today Linux and BSD have replaced proprietary UNIX in most federal and state research programs. Linux is used extensively within our own KU and K-State research and educational programs.

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1 http://tinyurl.com/emyk

2 For example, SCO sent letters threatening legal action to two Department of Energy facilities that are managed by the University of California. http://tinyurl.com/34bro

3 http://tinyurl.com/yqylk

4 http://tinyurl.com/2braj

5 http://tinyurl.com/2l275