

State Of Kansas
Office of the Attorney General
CONSUMER PROTECTION/ANTITRUST DIVISION
120 SW 10TH STREET, SUITE 430
TOPEKA, KANSAS 66612-1597
PHONE: (785) 296-3751

Office Use Only

Agent: _____
Category: _____
File No.: _____

CONSUMER INFOLINE
(785) 296-2424

CONSUMER HOTLINE
1-800-432-2310

PHILL KLINE
ATTORNEY GENERAL
Website: www.ksag.org

CONSUMER COMPLAINT

INFORMATION ABOUT THE CONSUMER (SIGNATURE ON BACK REQUIRED)

NAME: MR. Ms. DATE OF BIRTH: _____
Harlan L. Wilkerson _____ 1952
ADDRESS: _____ APT. #: _____
CITY, STATE, ZIP: _____
Hutchinson, KS 67501
DAYTIME PHONE #: _____ REGISTERED ON NO CALL? _____
(REQUIRED) _____ YES No
I AM A (CIRCLE ONE): INDIVIDUAL SOLE PROPRIETOR
FAMILY PARTNERSHIP PARTNERSHIP CORPORATION

INFORMATION ABOUT THE COMPANY YOUR COMPLAINT IS AGAINST

COMPANY NAME: _____
The SCO Group (formerly Caldera Inc.)
ADDRESS: _____
355 South 520 West Suite 100
CITY, STATE, ZIP: _____
Lindon Utah, 84042
PHONE #: _____
801-469-4999
SALESPERSON: Bill Broaderick Licensing
CONTACT PERSON: Ryan Tibbitts, General Counsel

INFORMATION ABOUT THE TRANSACTION (REFERENCE SECTION LETTERS WHEN ATTACHING SUPPLEMENTAL INFORMATION)

DATE OF TRANSACTION: 1998 COUNTY / PLACE OF TRANSACTION: Reno SECTION LETTERS
DID YOU SIGN A CONTRACT? No DATE SIGNED: _____ DID YOU HAVE A VERBAL AGREEMENT? No A.
PRODUCT OR SERVICE INVOLVED: _____ B.
Source code of the Linux® operating system, Caldera OpenLinux 1.3
AMOUNT PAID: \$ \$59 PAID BY: X CASH _____ CHECK _____ CREDIT CARD _____ LOAN _____ DIRECT DEPOSIT/TRANSFER C.
ARE YOU MAKING PAYMENTS ON A CONTRACT, CREDIT CARD, OR OTHER SUCH PAYMENT PLAN? No IF SO, LIST COMPANY NAME, ADDRESS, AMOUNTS PAID, AND YOUR ACCOUNT NUMBER: _____ D.
FIRST CONTACT BETWEEN YOU AND THE COMPANY: (CHECK ONE) WHERE DID THE TRANSACTION TAKE PLACE: (CHECK ONE)
____ PERSON CAME TO MY HOME _____ OVER THE PHONE
____ I TELEPHONED THE COMPANY _____ AT HOME
____ I RESPONDED TO A RADIO/TV AD/MAILING _____ AT THE COMPANY
____ I WENT TO COMPANY'S PLACE OF BUSINESS _____ BY MAIL
____ I RECEIVED A TELEPHONE CALL FROM COMPANY _____ X OTHER (EXPLAIN) _____
X OTHER (EXPLAIN) Caldera Internet Referral Hastings Bookstore Hutchinson, Ks. E.

CONSUMER HARM

BRIEFLY EXPLAIN HOW YOU HAVE BEEN HARMED: The vendor sold branded Linux® operating system source code. They now claim the licenses and warranties are void or voidable. Customers (developers) are being denied the material benefits of their purchases and are being sued. F.
HOW COULD THIS HARM BE REMEDIED? (CIRCLE ONE)
REFUND _____ PRODUCT DELIVERY _____
SERVICE PERFORMED _____ OTHER _____
ENFORCEMENT ACTION
Honor the existing license agreement G.

PLEASE COMPLETE BOTH SIDES - INCOMPLETE FORMS MAY BE RETURNED

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CONSUMER COMPLAINT

INFORMATION ABOUT THE CONSUMER (SIGNATURE ON BACK REQUIRED)

NAME: <u>MR.</u> Ms.		DATE OF BIRTH:
Harlan L. Wilkerson		1952
ADDRESS:	APT. #:	
[REDACTED]		
CITY, STATE, ZIP:		
Hutchinson, KS 67501		
DAYTIME PHONE #:	REGISTERED ON NO CALL?	
(REQUIRED) [REDACTED]	<u>YES</u> No	
I AM A (CIRCLE ONE):	SOLE PROPRIETOR	
<u>INDIVIDUAL</u>	PARTNERSHIP CORPORATION	
FAMILY PARTNERSHIP		

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INFORMATION ABOUT THE TRANSACTION (REFERENCE SECTION LETTERS WHEN ATTACHING SUPPLEMENTAL INFORMATION)

DATE OF TRANSACTION: 2000	COUNTY / PLACE OF TRANSACTION: Reno	SECTION LETTERS
DID YOU SIGN A CONTRACT? No	DATE SIGNED:	DID YOU HAVE A VERBAL AGREEMENT? No
PRODUCT OR SERVICE INVOLVED:		A.
Source code of the Linux® operating system, Caldera OpenLinux 2.3		B.
AMOUNT PAID: \$ 19	PAID BY: CASH CHECK <u>X</u> CREDIT CARD LOAN DIRECT DEPOSIT/TRANSFER	C.
ARE YOU MAKING PAYMENTS ON A CONTRACT, CREDIT CARD, OR OTHER SUCH PAYMENT PLAN? No IF SO, LIST COMPANY NAME, ADDRESS, AMOUNTS PAID, AND YOUR ACCOUNT NUMBER:		
D.		
FIRST CONTACT BETWEEN YOU AND THE COMPANY: (CHECK ONE)		WHERE DID THE TRANSACTION TAKE PLACE: (CHECK ONE)
<input type="checkbox"/> PERSON CAME TO MY HOME		<input type="checkbox"/> OVER THE PHONE
<input type="checkbox"/> I TELEPHONED THE COMPANY		<input type="checkbox"/> AT HOME
<input type="checkbox"/> I RESPONDED TO A RADIO/TV AD/MAILING		<input type="checkbox"/> AT THE COMPANY
<input type="checkbox"/> I WENT TO COMPANY'S PLACE OF BUSINESS		<input type="checkbox"/> BY MAIL
<input type="checkbox"/> I RECEIVED A TELEPHONE CALL FROM COMPANY		<input checked="" type="checkbox"/> OTHER (EXPLAIN)
<u>X</u> OTHER (EXPLAIN) Product Upgrade Offer		Purchased from vendor's website
E.		

CONSUMER HARM

BRIEFLY EXPLAIN HOW YOU HAVE BEEN HARMED: The vendor sold branded Linux® operating system source code. They now claim the licenses and warranties are void or voidable. Customers (developers) are being denied the material benefits of their purchases and are being sued.	HOW COULD THIS HARM BE REMEDIED? (CIRCLE ONE)
F.	REFUND SERVICE PERFORMED <u>ENFORCEMENT ACTION</u>
	PRODUCT DELIVERY OTHER
	Honor the existing license agreement G.

PLEASE COMPLETE BOTH SIDES - INCOMPLETE FORMS MAY BE RETURNED

ACTION YOU HAVE TAKEN

HAVE YOU CONTACTED THE COMPANY? No DESCRIBE RESULT OR EXPLAIN WHY YOU HAVE NOT CONTACTED THE COMPANY: The company is suing its licensees and partners. They have been involved in two lawsuits in Germany and five here in the US. They have selected their UNIX licensees, but no Linux licensees. SECTION LETTERS H.
HAVE YOU FILED A COMPLAINT WITH THE BETTER BUSINESS BUREAU OR ANY OTHER AGENCIES? Yes with the FTC, but the vendor is violating Kansas laws by disclaiming the implied warranty of merchantability conveyed by their labels I.
WHAT RESPONSE HAVE YOU RECEIVED? None

DO YOU KNOW OF OTHERS WITH SIMILAR EXPERIENCES WITH THIS SUPPLIER? Yes
Thousands of businesses and developers like myself, and millions of end-users in education and research
WHO AND WITH WHAT RESULT? Consumers of Linux® operating system products are deprived of their rights. J.

HAVE YOU SOUGHT THE ADVICE OF AN ATTORNEY REGARDING THIS COMPLAINT? No WHO IS THE ATTORNEY?

WHAT WERE YOU ADVISED? K.

HAS LEGAL ACTION BEEN TAKEN BY YOU OR AGAINST YOU WITH REGARD TO THIS COMPLAINT? No IF SO, PLEASE DESCRIBE THE CURRENT STATUS OF ANY LEGAL ACTION: The company has mailed "DMCA" letters to the Fortune 1000 companies demanding payment of licensing fees and threatening end user lawsuits. These letters harm freelance developers L.
ARE YOU CONSIDERING FILING AN ACTION IN SMALL CLAIMS COURT? No

DESCRIPTION OF TRANSACTION

PLEASE DESCRIBE THE TRANSACTION IN CHRONOLOGICAL ORDER (ADD ADDITIONAL PAGES AS NECESSARY).

The Linux® operating system has been exclusively licensed under the GPL since 1992. It has been a registered trademark licensed for use with computer software that uses the open source code of the Linux® operating system since 1997. Caldera labeled their products as open source and marketed them to developers and resellers. They claimed they were a variant of UNIX and that they conformed to UNIX specifications and could be used for developing, running, or serving UNIX programs. M.

I ALLEGE THIS TRANSACTION WAS DECEPTIVE BECAUSE: They claim that all of those things infringe upon their intellectual property rights and that end users are violating their copyrights, even though we hold their licenses. N.

I ALLEGE THIS TRANSACTION WAS UNCONSCIONABLE/UNSCRUPULOUS/UNETHICAL BECAUSE: The vendor is using threats of litigation to deny consumers their rights under the license agreements and the law. Full details are attached. O.

DOCUMENTATION OF THE TRANSACTION

PLEASE PROVIDE COPIES OF ALL DOCUMENTS RELEVANT TO THIS COMPLAINT, INCLUDING ADVERTISING MATERIAL, CONTRACTS, WARRANTY INFORMATION, RECEIPTS, LETTERS, CHECKS (FRONT AND BACK), PHOTOGRAPHS, BILLS, AND INVOICES, ETC. FAILURE TO PROVIDE ALL RELEVANT DOCUMENTS MAY CAUSE UNNECESSARY DELAY IN THE HANDLING OF YOUR COMPLAINT.

X DOCUMENTS ENCLOSED

 NOTHING TO ATTACH

P.

VERIFICATION

I AM: OVER AGE 60 OVER AGE 70 PARTIALLY DISABLED TOTALLY DISABLED ILLITERATE
 NON-ENGLISH SPEAKING OTHER SPECIAL CIRCUMSTANCES (DESCRIBE) Q.

IN FILING THIS COMPLAINT, I UNDERSTAND AND AGREE THAT THE ATTORNEY GENERAL AND HIS STAFF ARE NOT MY PRIVATE ATTORNEYS, BUT INSTEAD REPRESENT THE STATE OF KANSAS IN ENFORCING LAWS DESIGNED TO PROTECT THE PUBLIC FROM DECEPTIVE AND UNCONSCIONABLE BUSINESS ACTS AND PRACTICES. I UNDERSTAND THAT KANSAS LAW LIMITS THE PERIOD OF TIME DURING WHICH I MAY FILE ANY PRIVATE LEGAL ACTION(S), AND I HAVE BEEN ADVISED TO CONTACT A PRIVATE ATTORNEY IF I HAVE ANY QUESTIONS CONCERNING THOSE TIME LIMITATIONS AND MY LEGAL RIGHTS WITH REGARD TO ANY PRIVATE ACTION(S). I FURTHER UNDERSTAND AND AGREE THAT THE CONTENTS OF THIS COMPLAINT MAY BE FORWARDED TO THE BUSINESS OR PERSON THE COMPLAINT IS DIRECTED AGAINST, MAY BE FORWARDED TO OTHER APPROPRIATE AGENCIES, AND WILL BECOME ACCESSIBLE TO OTHERS UNDER THE KANSAS OPEN RECORDS ACT. FINALLY, I DECLARE AND VERIFY UNDER PENALTY OF PERJURY AND THE LAWS OF KANSAS THAT ALL OF THE FOLLOWING IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

Karlan L Wilkerson

SIGNATURE OF COMPLAINANT
(REQUIRED)

25 May 2004

DATE

WHAT IS LINUX?

With an estimated 7 million users, Linux is an alternative to operating systems such as UNIX® and Windows NT®. It is a full-function, UNIX-like operating system created through a unique cooperation of freelance developers worldwide. It delivers 32-bit power, true multi-tasking, interoperability, unsurpassed connectivity, and source code. Linux, as an alternative, provides power, reliability, and customization.

Common uses:

- Workstation for doing daily work
- Server for hosting multiple Internet and Intranet sites
- Development platform for creating Linux solutions
- File and print server for Linux,

Macintosh, NetWare, OS/2, Windows, and UNIX systems

- Alternative server for Intel®-based UNIX programs

WHAT DOES CALDERA SYSTEMS OPENLINUX PROVIDE?

"A Powerful, stable, friendly and fast Linux distribution. The bottom line: excellent."
—Nicholas Petreley, InfoWorld

Linux users worldwide are turning to Caldera Systems OpenLinux because it is a complete solution.

Easiest Linux to Install and Use

- Installation and administration wizards to help you set up and use your system
- Graphical desktop with a customizable, point-and-click interface
- Built-in field help and other online help
- Automatic hardware detection
- Automatic detection of NetWare servers



Tested, Supported, and Proven

Caldera Systems takes pride in delivering the most extensively tested, integrated, supported, and proven Linux system. This commitment positions Caldera Systems as the leading provider of Linux business products.



Includes the Linux 2.0.35 kernel, plus:

- Fully tested and integrated packages
- The only self-hosted Linux: binaries and source code match for easy development
- Direct e-mail installation support
- Auto-notification of updates and patches
- NetWare client and administrative utilities

Complete Linux Source Code with Integrated Programs and Tools

- StarOffice (office suite)
- Netscape Communicator
- BRU Backup and Restore
- DR-DOS
- Java Developers Kit (JDK)
- K Desktop Environment (KDE)
- Sybase Adaptive Server™ Enterprise

"OpenLinux is easy to install, use and manage...Caldera has tried to make its OS and application as simple to use as possible."
—Mark Nassal, Performance Computing

THE TWO CDs INCLUDE:

- 2.0.35 Linux kernel
- Multi-user
- Multi-tasking
- Popular libraries (glibc runtime and libc5)
- PalmPilot-capable
- iBCS-compliant (for running Intel®-based UNIX programs)

Network, Internet/Intranet Tools

- NetWare client and administrative utilities for Linux
- Network connectivity (TCP/IP, Ethernet, PPP, SLIP, NFS, SMB, AppleTalk, etc.)
- Apache Web server
- FTP server
- Mail servers
- Built-in Web browsing plus e-mail and newsgroup access with Netscape Communicator and KDE
- Dial-up connectivity to the Internet
- DHCP server

Development Tools

- Java Developers Kit (JDK) and Kaffe
- Complete Linux source code
- Debugging tools
- Scripting languages (python, perl, Tcl/Tk)
- Compilers (C, C++)

Graphical Desktop

- K Desktop Environment (KDE)
- XFree86 version 3.3.2
- Supports 8- to 32-bit graphics modes

Media and Writing Tools

- Supports many popular sound cards
- Creates photo-quality graphics for print and online (TIFF, JPEG, GIF, PNG)
- Graphical CD, WAV and MPEG-1/2/3 players
- Professional document production (TeX, LaTeX, groff)
- HTML publishing for Web sites



Novell

SYBASE

Enhanced Software Technologies, Inc.

STARDIVISION



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www.caldera.com