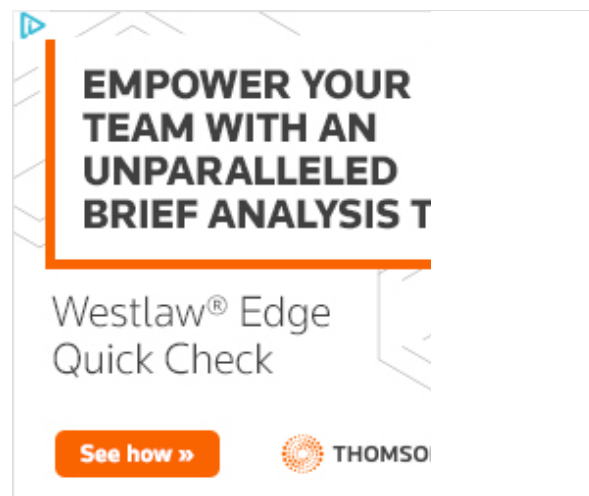


SCO sues Novell, claiming slander

By Deseret News on January 21, 2004 1:42 pm
Brice Wallace

The feuding between two Utah County companies has blossomed into a lawsuit.

Lindon-based SCO Group Inc. on Tuesday filed a slander suit against Provo-based Novell Inc., saying Novell has hurt SCO business by, in part, making false and misleading claims that it owns the copyrights to the Unix computer operating system and UnixWare.

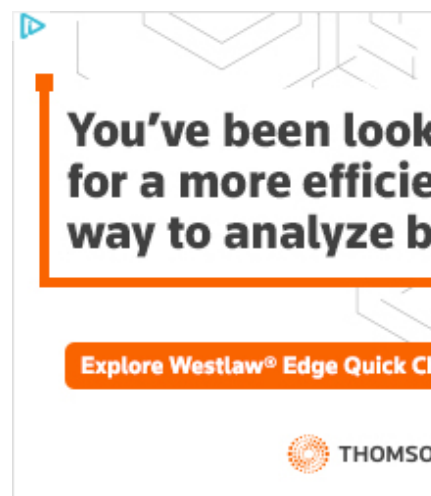


SCO, which has sued New York-based International Business Machines Corp. about alleged illegal placement of Unix into the open-source Linux operating system and threatened lawsuits against other companies for the same thing, filed the suit against Novell in state court in Salt Lake City.

The suit seeks preliminary and permanent injunctions, plus damages to be determined at trial.

SCO claims Novell has improperly filed copyright registrations for Unix technology covered by SCO's copyrights; falsely claimed publicly that it owns Unix and UnixWare copyrights, which it says has harmed SCO's copyrights, its business and its reputation; made false statements intended to cause customers and potential customers to not do business with SCO; and tried to block SCO's ability to enforce its copyrights.

The injunction seeks to assign SCO the Novell-registered copyrights, prevent Novell from claiming ownership interest in those copyrights and require Novell to retract representations it has made about its alleged ownership.

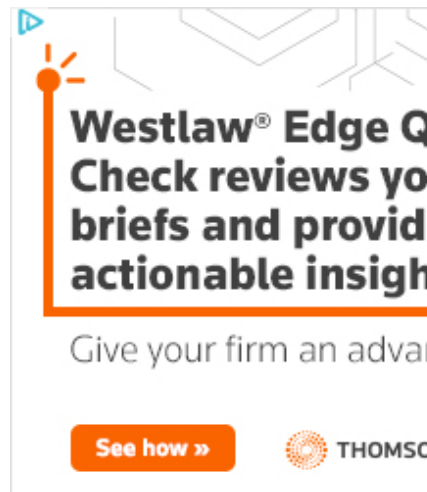


"SCO takes this action today given Novell's recent and repeated announcements regarding their claimed ownership of the Unix and UnixWare copyrights," SCO attorney Mark Heise said in a prepared statement. "SCO has received many questions about Novell's actions from potential customers, investors and the press. Although SCO owns the Unix and UnixWare copyrights, Novell's efforts to claim ownership of these copyrights has forced this action."

Heise said a 1995 asset purchase agreement and amendment between the companies makes SCO the copyright owner.


Novell spokesman Bruce Lowry said Tuesday afternoon he had not seen the suit and that the company declines to comment on any

lawsuits. "We will defend our interests," he said. "We have made fairly clear statements about the copyrights issue."



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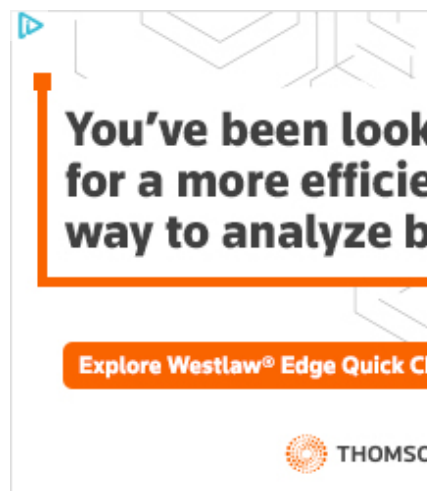
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On Dec. 22, Novell issued a statement saying, "Novell believes it owns the copyrights in Unix and has applied for and received copyright registrations pertaining to Unix consistent with that position."


SCO said that day that it would challenge Novell's ownership assertions, after learning that Novell had registered several versions of Unix with the federal copyright office.

Novell and SCO have been waging a war of words since last spring about control over Unix. Novell bought Unix from AT&T Corp. in 1992, and SCO has said it bought the rights to Unix in 1995 for \$145 million from Novell.



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Novell and IBM are among companies that have begun developing products for use in Linux, a freely distributed operating system that is enhanced by contributions from developers worldwide.

SCO has offered companies licenses to use its intellectual property in Linux distributions.

"They have just had about enough of Novell these days," said Brian Skiba, an analyst with Deutsche Bank who rates SCO shares a "buy" and doesn't cover Novell. He said he doesn't own shares of either company.

"A lot of people in the open source community have viewed Novell's statement as a rallying cry," said lawyer Jeffrey Osterman of Weil, Gotshal & Manges LLP. "This all came to a head sometime in the past couple of weeks" with the postings on Novell's Web site.

The battle between SCO and IBM was the topic of a meeting Tuesday at the Free Software Foundation, said Osterman, vice chair of the open-source subcommittee of the Intellectual Property Owner's Association.

"Folks have said that if SCO does not own the copyrights, then SCO can't bring copyright claims and thus people don't have to worry and don't have to take licenses," he said. "That's a problem for SCO. This lawsuit is an attempt by SCO to deflect whatever effect the Novell postings have had on SCO's licensing program."

Novell stock rose 30 cents Tuesday to close at \$12.41, its highest point during the past year. The price has been as low as \$2.14 during that time. SCO stock rose 50 cents to close at \$15.95. It has ranged from \$1.09 to \$22.29 during the past year.

Contributing: Bloomberg News

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