

Utah jury decides Unix battle in favor of Novell

March 31 2010, By PAUL FOY , AP Business Writer

(AP) -- Novell Inc. never sold ownership rights to Unix computer software code when it allowed another company to take over the servicing of the venerable server operating system used by large corporations, a jury in Utah decided Tuesday.

The verdict was a setback for The SCO Group of Lindon, Utah, which hoped a victory would help lift it out of [bankruptcy](#) and strengthen a separate case alleging IBM Corp. misappropriated Unix code for improvements that made the open-source Linux operating system run better.

Some former Novell executives testified that they intended to sell the copyrights along with the Unix operating system, and SCO Group offered an amendment written a year after the 1995 sale that it said transferred the rights.

"Obviously, we're disappointed in the jury's decision," said SCO trial lawyer Stuart H. Singer. "We were confident in the case, but there's some important claims remaining to be decided by a judge."

SCO will ask U.S. [District Judge](#) Ted Stewart to award the copyrights to SCO "even if we didn't have them before," he said. "It's a setback, but it's not over."

SCO filed a slander-of-title lawsuit in 2004 asserting Waltham, Mass.-based Novell hurt its business and reputation by claiming it sold

serving rights, but not copyrights. SCO was seeking damages of up to \$215 million.

"Novell is very pleased with the jury's decision confirming Novell's ownership of the Unix copyrights, which SCO had asserted to own in its attack on Linux," the company said in a statement. "Novell remains committed to promoting Linux, including by defending Linux on the intellectual property front."

Novell bought Unix from AT&T Corp. in 1992, and SCO has said its predecessor, Santa Cruz Operations Inc., paid Novell 6.1 million shares of SCO stock valued at more than \$100 million for the Unix rights in 1995.

Yet Novell wanted to keep ownership to collect royalties from legacy Unix licenses, and SCO has been making those royalty payments, Novell trial lawyer Mike Jacobs said.

In return, SCO got Unix source code and the right to license improved versions, he said.

"It's an important win for the open-source community because SCO had argued there was protected Unix in Linux and had sought substantial licensing fees from Linux users based on that claim," Jacobs said.

IBM has embraced open-source Linux but denied SCO's allegation that it dumped proprietary [Unix](#) code into the freely distributed [operating system](#).

Tuesday's verdict "demonstrates the failure of SCO's litigation strategy," IBM spokeswoman Karen Lilla said. "IBM remains confident in the merits of its position."

The verdict came after a three-week federal trial in Salt Lake City.

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