

FILED
DISTRICT COURT
INDIANAPOLIS DIVISION
05 JUN 27 AM 8:31
LAURA A. BRIGGS
CLERK

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

Daniel Wallace,

Plaintiff,

v.

Civil Complaint No. 1:05-cv-0618-JDT-TAB

Free Software

Foundation Inc.,

Defendant.

Motion for Leave to Submit Supplemental
Declaration of Plaintiff Daniel Wallace

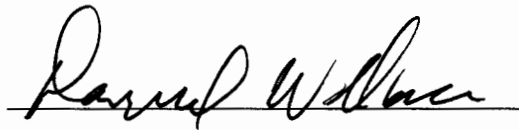
Comes now the Plaintiff Daniel Wallace and moves the Court pursuant to Rule 56 of the F.R.Civ.P. and Local Rule 56.1 grant leave to submit the [H.I.] Supplemental Declaration of Plaintiff Daniel Wallace into the record to supplement his pending Motion for Summary Judgment.

In further support of this Motion, Plaintiff Daniel Wallace submits to the Court the following:

1. On May 20, 2005, Plaintiff filed his Motion for Summary Judgment.
2. The Court has ordered the Defendant F.S.F. to file his response to Plaintiff's Motion for Summary Judgment on or before July 1, 2005.
3. The Defendant has not yet filed his response to Plaintiff's Motion

for Summary Judgement.

Wherefore, Plaintiff Daniel Wallace prays the Court order the [H.I.]
Supplemental Declaration of Plaintiff Daniel Wallace entered into the record
of the above captioned matter.

A handwritten signature in cursive script, reading "Daniel Wallace", is written over a horizontal line.

Daniel Wallace, *pro se*
P.O. Box 572
New Palestine, IN.
317-861-6415

Dated: June 27, 2005

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FOR THE SOUTHERN DISTRICT OF INDIANA
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Daniel Wallace,

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SUPPLEMENTAL DECLARATION OF PLAINTIFF DANIEL WALLACE

Plaintiff Daniel Wallace swears based upon personal knowledge and belief and under penalty of perjury that:

- 1.) I am over eighteen years of age and competent to testify to the matters set forth herein.
- 2) I began authoring computer programs while studying in the School of Physics at Indiana University in the 1970's. I have worked for over twenty years in business and employment areas involving computers including sales of hardware and software. I have owned my own business that provided sales and consulting services for the home and small business.
- 3) Since the year 2002 through the present date I have invested in the research and development of computer programs in order to prepare a compact computer operating system for test marketing. The command line operating

system is intended for use with computational physics programs and numerical analysis involving scientific modeling.

4) During my work experiences through the present date, I have evaluated the state of business opportunity and technological innovation present in the computer program market using business and scientific journals and professional Internet news media sources.

5) Prior to renunciation and abandonment of the FREE SOFTWARE FOUNDATION INC. and its use of the GPL, the Plaintiff was an associate member of the non-profit FREE SOFTWARE FOUNDATION INC.

6) I have witnessed the F.S.F. distribute the GNU/LINUX operating system under the GPL license to the public in return for monetary contributions.

7) In the past few years during the rapid public adoption of the Free Software Foundation Inc.'s GPL license I have observed a direct correlation between use of the GPL and a rapid decrease in free market opportunity for proprietary computer programs.

I have read assertions by the Defendant F.S.F confirming my conclusions concerning the marketplace. Professor Eben Moglen, General Counsel for the Free Software Foundation, has stated in his treatise *Freeing the Mind : Free Software and the Death of Proprietary Culture* <http://moglen.law.columbia.edu/publications/maine-speech.html> that the goal of the F.S.F. and "free software" is that of eliminating free market competition in proprietary software. Further support is lent to my observations by reading Professor Moglen's treatise *The dotCommunist Manifesto* <http://emoglen.law.columbia.edu/publications/dcm.html> which declares that the GNU/Linux operating system, by displacing a proprietary


model of competition through the free software movement, can replace the "capitalist" production of computer programs.

8) The F.S.F. promotes the collaboration and use of the GPL license by way of the global Internet. The Internet site *OSTG* (open source technology group) <http://www.ostg.com/press/press.htm#sf100> issued a press release on May 18, 2005 in which it was stated that 100,172 computer program development projects were present on that site.

Of these projects approximately two thirds are licensed under the price-fixing terms of the GPL license and many incorporate Defendant F.S.F.'s GPL licensed and copyrighted computer code. The press release continued to assert that in the prior 100 days, 6000 new computer programs were launched on the site's computer servers. Proprietary software is being driven from the open market place by the GPL price-fixing scheme at an exponential rate.

Most new or useful proprietary computer programs are now quickly emulated under the GPL license. F.S.F. general counsel Eben Moglen predicted the destruction of proprietary intellectual property in his treatise *Freeing the Mind : Free Software and the Death of Proprietary Culture* , *supra*, where he threatened eventual destruction of the Microsoft Corporation, the largest proprietary software corporation in the world.

The individual business entrepreneur dealing in proprietary computer programs is being driven from the free and open marketplace just as the Free Software Foundation has advocated.



Daniel Wallace, affiant.

Dated: June 27, 2005

P.O. Box 572
New Palestine, IN.
317-861-6415

Certificate of Service

A copy of the foregoing was sent by first-class U.S. mail, postage prepaid,
to counsel of record:

Curtis W. McCauley
Philip A. Whistler

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One American Square, Box 82001
Indianapolis, Indiana 46282-0200

Counsel for defendant FREE SOFTWARE FOUNDATION INC.

Dated this 27th day of June, 2005


Daniel Wallace