

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

Daniel Wallace,

Plaintiff,

v.

Civil Complaint No. 1:05-cv-0678-RLY-VSS

INTERNATIONAL BUSINESS MACHINES CORPORATION;

RED HAT INC.;

NOVELL, INC.,

Defendants.

SECOND AMENDED COMPLAINT

INTRODUCTION

This action is brought for equitable relief, pursuant to 15 U.S.C. sec. 26 in a matter relating to the restraint of trade by way of a licensing scheme to fix the prices of computer software products at predatory levels.

JURISDICTION

This Court has federal jurisdiction pursuant to 28 U.S.C. sec. 1337(a).

STANDING

Plaintiff Daniel Wallace has standing for commencement of this action pursuant to 15 U.S.C. sec. 26.

PARTIES

Plaintiff Daniel Wallace is a citizen and resident of Hancock County in the

State of Indiana.

Defendant INTERNATIONAL BUSINESS MACHINES CORPORATION is a New York corporation with business headquarters in the State of New York.

Defendant RED HAT INC. is a Delaware corporation with business headquarters in the State of North Carolina.

Defendant NOVELL INC. is a Delaware corporation with business headquarters in the State of Utah.

#### VENUE

Venue for this action is established pursuant to 15 U.S.C. Section 15(a) and supplemented by 28 U.S.C. Section 1391(a)(2).

#### COMPLAINT

The Defendants INTERNATIONAL BUSINESS MACHINES CORPORATION, RED HAT INC. and NOVELL INC. have conspired with the FREE SOFTWARE FOUNDATION INC. and others to pool and cross license their copyrighted intellectual property in computer programs that are collectively known as the Linux (or GNU/Linux) operating system.

The Defendants have used a predatory price-fixing agreement known as the GNU GENERAL PUBLIC LICENSE to pool and cross license their intellectual property to develop, distribute and leverage the Linux operating system to provide computing services for consumers.

#### INJURY

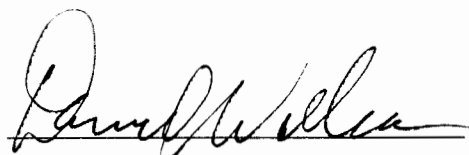
The Defendants' pooling and cross licensing of intellectual property with

the described predatory price fixing scheme is foreclosing competition in the market for computer operating systems. Said predatory price-fixing scheme prevents Plaintiff Daniel Wallace from marketing his own computer operating system as a competitor.

REQUEST FOR RELIEF

The Plaintiff respectfully requests the Court grant equitable relief in the form of an injunction prohibiting the development and distribution of the Linux operating system under GNU GENERAL PUBLIC LICENSE in the course of commerce by the defendants INTERNATIONAL BUSINESS MACHINES CORPORATION, RED HAT INC. and NOVELL INC.

Dated this 1<sup>st</sup> day of December, 2005.



Daniel Wallace, pro se

P.O. Box 572

New Palestine, IN.

317-861-6415

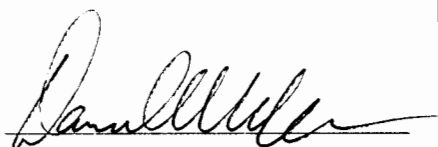
**Certificate of Service**

A copy of the document(s) concerning this matter were sent by first-class U.S. mail, postage prepaid, to counsel of record:

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Dated this 15<sup>th</sup> day of December, 2005



Daniel Wallace