

Transcript of informal group chit-chat with Darl McBride

June 20, 2003

Members of the Provo Linux Users Group (PLUG), along with other Linux and Unix group members and concerned individuals in the area held a protest against SCO on June 20, 2003. This protest began in front of SCO headquarters in the afternoon, and has been reported a number of places. The official PLUG protest web site can be seen at <http://mirror.lug-nut.com/>

After protesting in front of the SCO corporate offices (on a cul-de-sac), many in the group moved to a more visible location, a busy intersection nearby. A little while later, Darl McBride stopped by for an informal chit-chat with the demonstrators on his way home. Here is a (rough) translation of what was said during the 23 minute conversation.

The Cast:

Darl: Darl McBride (the man behind the FUD)

P: Protester (the schizophrenic protesting collective)

AP: Angry Protester (you'll know him when you hear him)

C: Cameraman (the guy holding the video camera)

Pleasant Grove Police Officer: Pleasant Grove Police Officer (Lindon doesn't have a Police force--they share Pleasant Grove's)

Darl: So, how's the day going?

P: Oh, pretty well. We had more people than we expected. We talked to some of your engineers out side, and they're really nice people.

Darl(0:11): So how did all that go?

P: oh, really well

Darl(0:16): So you guys are just convinced that we're satanic? Is that it?

P: no, no, no.

P: Just greedy, that's all.

P: We wouldn't use those words. We would use different ones.

P: We don't say satanic, but we don't respect what's happening.

P: Yeah, I mean, we obviously don't know what's going on 100%. And, we feel like the whole world is being kinda kept out of the loop. But we. The number one reason that we're out here is because we feel that there's a lot of FUD going around about Linux right now. Businesses are trying to be scared off to using Linux. I mean, IBM might be at fault. And if they are, they should be punished for what they did.

Darl: So your whole basic concern is just the whole FUD side of the issue.

P: Right. Now people aren't going to use Linux because of this IBM lawsuit. when IBM is not the one that's hurting. We're the guys who actually program this stuff in our spare time.

P: We're worried about claims being made without any proof being shown, and it's ...

P: And we don't see the legal basis for an NDA to see the supposed ... you're offering ...

Darl(1:08): Well, you know that's a good one. A lot of people have been concerned about the NDA. Know, the basis for that is we have these software agreements that we have made with large vendors around the world and it basically says "We have to protect the software code," and in order to basically license this you have to sign up to say "this is confidentially protected" and you won't share this with somebody else. So, if we just turned around and opened this code up. Like if I showed you the code. I mean. I've got it right here.

P: Do we want to see that, or are we at liability? No, I'm dead serious. Are we at liability if we see that? I'm not kidding.

Darl(1:50): I'm not going to show you. But, the point is we found hundreds of thousands of lines of code that are infringing against our contracts. Okay? Now we went through the process, and everybody said "Well wait. If this is... Just show us ten lines of code. If it's really that bad, just show us ten lines of code. We don't want to wait two years. See, your point about FUD. If there's something there, we want to see it right now.

P: Well, we can fix it ...

Darl(2:15): Well exactly.

P: If it's still a liability claim against IBM, if that's truly what you're seeking, it doesn't matter if we fix it, and take it out, you can still show that IBM put it in there.

Darl: Right, so let me just...

P: So, what's the point of ...

Darl(2:27): So the point is this. Our agreements say that it's protected. Now by us going out, then this becomes unprotected. By these ...

P: ...

Darl: Like if I show you this side of the page, it's okay. I mean, this is Linux. This is out there. Everybody can see it, okay. But if you look at the other side, and I'm not going to show you right now, this actually is protected code that nobody is able to see without, you know, being under one of our protected agreements. It's not about showing the code to keep it protected. It's just that it's protected.

P: Okay.

P: So why not indicate the lines in the Linux kernel without showing us your code.

Darl(3:01): Right. Because then by definition, we have exposed the code that is protected. Does that make sense.

P: It already has been exposed.

P: That's kind of redundant.

Darl(3:10): Exactly. By us coming out and saying where it is and what it is, that's where it becomes a problem.

P: A different question along the same lines. Caldera in the past has contributed a lot to Linux.

Darl(3:21): Right. But we haven't contributed our Unix code.

P: But, according to... I read something about an engineer who used to work at Caldera that said the other way around. That said there was code that was that Caldera did put ...

Darl(3:32): There is code that we have agreed to put in there, and we've had ... But the code that we're finding infringing is not the code that we agreed to contribute.

P: Why instead of following the model that AT&T set for this. That is showing what lines of code that is. At least giving an opportunity to remove the code, instead of suing for 3 billion dollars. There's a big difference, because AT&T found similar problems with BSD, and you could see their motives. They really wanted that code out of there so that they could continue with their proprietary Unix.

Now the difference with SCO being that they're not concerned about that so much as they were waiting for code to be in there, and once they found it, they said "We're not going to tell you so that... We don't want to give you an opportunity to remove it so Linux can be free of Unix and Unix can be free of Linux."

P: ... Trojan horse ...

P: Why instead show a certain amount of greed, and saying "We want to sue for \$3 billion, and we won't give the Linux community an opportunity to remove that code. Why aren't you giving the Linux community an opportunity to remove that code. It just seems like the only motivation behind not telling that, and giving the opportunity to remove that would be greed.

Darl(4:48): Well, I think going back to the economic side it. The flip side of this argument is... So, SCO is a company that for 20 years had Unix on Intel. They had a 20 year legacy of selling that type of product line. And as you go into the turn of the century, Linux had moved along, and at 2.2 version of the kernel, you know, it was doing rather nicely, you could do two or four way systems together, and that was nice.

But what's happened, from Linux 2.4 that came out, what January 2001 or so, to current, there have been millions of systems shipped into the marketplace, okay, and the code increase during that period of time. I'm sorry, the functionality increase of Linux during that point in time has gone up dramatically. And, with respect to scalability, and reliability, you get high end enterprise scalability, and a lot of the code increase has come, and the functionality increase has come from the vendors that we have these confidentiality agreements with.

And, so the question that came up earlier, was "you know, we're all working for free on this stuff." You know, we have no problem with all of you guys that are working on this stuff for free. The problem that we have with the economic modeling side of this is the vendors that are getting an economic incentive to reducing the amount of royalties that they have to pay by virtue of taking our property and putting it into Linux, then turn around and say it's a free system.

P: The same pattern was followed by AT&T, though, with BSD.

Darl(6:17): Yea, but during that same period of time, there was still a lot of economic value to the System

V code base.

P: So if you don't mind my asking, what is the absolute definitive answer to the question of "Why can't we just take the code out?" I mean, honestly, Linux is my livelihood right now, that's where I've been making all my money. If that goes away, you put a family on the street.

Darl(6:42): Yeah, and we're not trying to get Linux to go away. We're trying to get damages that have been done to this company, a company that used to have a few hundred... You want to talk about economic damages.

P: Well, damages, I mean, you're damaging my livelihood now. Should I turn around and counter sue?

Darl: There's hundreds of companies that used to work for this company that don't work here anymore. You know, the revenue streams have gone from hundreds of millions down to 50. Okay. 50, 60 in the last year, and so the question is "Is intellectual property protectable, or not?" Now we're into the litigation, and we're trying to get these things resolved. Now, you'll notice we haven't gone out and attacked RedHat. We haven't sued them.

P: You just threatened.

P: Sent out thousands of threatening letters.

P: 1500

Darl: The point... The part of the concern...

P: I've read several quotes where it says that individual users of Linux could possibly in the future be held accountable.

Darl: So the problem then is when you have infringed code that is sitting there on the system.

P: I have a uniprocessor system at home. I'm never going to touch any of this other code. Why should I have to pay a license where ...

Darl: We're talking about commercial users.

P: What's the difference?

Darl: We didn't send you a letter, right? We sent it out to commercial users.

P: But the FUD is that I've read (you or Sontag) that said that individual users might have to pay sometime. And that kind of trash talking. I mean, the thing with IBM I think should be completely separate.

Darl(8:05): Let me set one thing straight for you guys. We are not going after individual users. We're trying to say people who are commercially getting gain on this. And people who were getting commercial gain on Unix, and now they've gone over to this system. That is where we are really have a major problem. That's where we're ...

P: What's to stop you ... in the future?

Darl: So, the question. Again. Our focus is not on end users right now. We believe that there has been an IP hot potato that has been passed down to end users. And we are trying to get that resolved with the Unix

vendor community.

P: So, if I use Debian, which is completely Open-Source (someone: non-profit), why would I be possibly liable in the future for something?

Darl(8:55): I can't... Again, when I look at Debian versus what we're talking about with enter... I would really draw the line on enterprise class Linux versus what you're talking about. Right? 'Cause I think that there's a huge difference.

I mean, when I hear what you're talking about, the thing that is interesting is I would argue the point which is that's not where we're trying to go. Okay. Because our real beef is where the thing has been highly commercialized. When you get a 64-way system. And my guess is that the one you're using at home is not a 64-way system. Right? That is really where we have a lot of concern.

P: So, you opened, was it Unixware 3, or OpenSystem 3, I can't recall. It was back in 2000, you basically made that source code available to everybody.

Darl(9:37): It wasn't Unixware. We've never taken our System V code and made that available.

P: No it was system 3 of something.

Darl(9:42): It was very, very early versions of that go back into the '70's that predate the commercialized versions of any of the forms of Unix. So, again, we would agree that there's things out there that we're not trying to round up all this stuff and say "Hey, every ounce of Unix that is out there is protectable and SCO owns all this stuff", and you know that's not what we're saying. ... commercialized apps...

P: So, give me an example. If I create an embedded system, say an access point, or some motor controlling module, that uses a Linux kernel, is that infringing on SCO's intellectual property?

Darl(10:13): Yeah, that's hard for me to say right now with respect to what you just said about that.

P: Hewlett Packard has stated that they're supporting Debian. Would that infringing right there? It's major commercialized corporate backing. It's a non-profit distribution.

Darl(10:33): Here's what I would say. In May, we had a lot of folks that were very concerned that, you know, that this was a big FUD case, and "you guys didn't even have any code inside Linux", and so we said, you know what? We went back and said from a legal standpoint we're going to open some of this up just so that people understand that there are direct files of System V showing up in Linux. Then we said, we're going to move on and go through the month of June, and show this to people. And we've been showing it. Had dozens of people who have seen it. And every day, more people roll into here in Lindon, and we show them the code.

And further what we've said, is that when we get into July, we're gonna come back. We're getting feedback right now, and I would view this as a form of feedback. You guys are obviously telling us what you think. We're hearing feedback from users. And then when we get into July... Pardon?

AP: What about all of your copyright violations. Not abiding by the copyright on the stuff that you have profited from all these years.

Darl: We haven't seen those violations. But let me just finish up here...

AP: Have you ever read the license you distributed it under?

Darl: I've said that as we move into July, what we want to be able to do is come out and say definitively "Here's where we are. Here's how we want to try and move forward." And...

P: Suppose a company that's based in Lindon that makes a lot of money off of technology has a web server that runs Linux. Would they be under infringement of your copyright? ... Like SCO, or something

Darl(12:00): Again, back to web servers is not where I see the big problem.

?????

Darl(12:09): When you talk about highly-scalable systems, and again, I'm not going to sit here today and say that they in Lindon on the corner of I-15 and 1600 North would be. We couldn't define all the rules here. What I'm trying to say here is the general approach here is ... your use of Linux

P: ... says we're too close to the road here.

Darl: And commercialized Linux that has derived great benefits from canceling Unix contracts with us, that's where we have a lot of problem. And our real goal is to get into July. We want to go out and definitively say "Here's where we are, and here's how we're gonna try and move forward, and here's how we want to see things go forward."

P: So, how is it cut and dried where the infringement occurred? Do you have substantial proof that one company ...

Darl: Yeah

P: What about SGI. I mean, they've contributed significant code to do scalability, so how is it that you're going after IBM, but yet SGI is free and clear for the time being?

Darl(13:09): We haven't said who's free and clear. What we have said is we have significant problems with IBM, we're working through those issues right now, and hope to get resolution to those. But, ya know, we're working through these issues, we're dealing with them on a case by case basis, and we want to get resolution.

AP: Have you ever read the GNU Public License?

Darl(13:30): Sure.

AP: Well, what about 100 thousand lines of infringement of copyrighted code on your part for every, maybe, one line that there might allegedly be on anyone else's code?

Pleasant Grove Police Officer: Is there anything else here that we need to address?

Darl: No, I think we're okay. Everybody has moved over here. ... I'm gonna take off right now, so I think we're fine.

P: Before you take off, I was not able to get a very good picture of you off the web. Do you mind if I get another picture with you?

Darl(14:05): You guys are awesome. I gotta go home, and you guys have a good weekend.

P: While you're grabbing a picture, I did have one other question. So, you've talked about how your intent isn't to go after end users, and how certain companies, you're not expecting to prosecute, whereas other companies you are. We see this as sort of uncertainty as much as the fear and doubt that SCO is propagating. We would enjoy an on-the-record statement saying more or less the things you just told us.

Darl(14:40): Yeah. I appreciate that. When you talk about fear, uncertainty and doubt, the point is that it is very certain that there is copyrighted code infringement violation problems we're dealing with here. And, It's also very certain that as we get into the next month, we want to try to figure out how to move things forward in a way that, you know, we can live together in peace again. We're gonna attempt to do that.

P: Is there anything that we can do as a ...

AP: ... start settling with all the people you've infringed? All of the contributors to Unix, where you're not ... Where you're no longer honoring the GPL?

Darl(15:10): We haven't seen that.

AP: Yea, of course. Because that's your own attorneys.

P: Do you hope that the Linux kernel becomes completely Unix-free? Completely free of any potential copyright violations or patent violations, and everything? Is that your ultimate hope right there?

Darl(15:30): Well, here's what I would say. I think on the Linux side, it's pretty clear that the processes are ? First of all, I think that the model here of you guys all being involved, and people all around the world being involved, and contributing in, and being involved as part of this community is outstanding. You know. Hats off. That's a very cool ... Okay?

The part that is concerning is that when the code goes into the kernel, there is in fact not a vetting process to make sure there's not code violations in place. One of the hopes that I would have coming through this process that we would all come out with is a mechanism by which the code can be vetted, can be safe, can be secure, so that we don't have these kind of problems coming.

P: So is that a yes or a no. Do you hope that the Linux kernel is completely free of any violations whatsoever?

Darl(16:22): Sure.

P: How?

P: I have one other question.

Darl: That's what I think ...

P: How would this vetting process work?

Darl(16:28): Well, that's what I think needs to be understood and put together here with people that ...

P: ... developers don't have any access to know what the other code came from ...

Darl: Exactly, and I think that's where there's an opportunity to in fact work together on some of this. ... "don't ask, don't tell" process over here, which, you know, is ask for forgiveness, not permission. And to the extent that you can get some kind of an equilibrium here, where you've got proprietary [or did he say propriety?], and you've got open over here. To the extent that we can come together, there some modeling there, I'm all for that.

P: Do you actually have any quotation that shows there's a "don't ask, don't tell" policy? The only quotation we've seen is with respect to patents, which is the same thing any patent attorney says. With respect to copyrights, I believe that what you're saying here is a gross misrepresentation, and that the Linux process is very much better, than wholesale copying of Linux into your source tree.

Darl(17:27): I think when we look at this, you'll find... You'll see that a lot of people out there in industry today that are understanding that there are problems with the very process by which Linux comes together.

AP: As well as Unix, right?

Darl(17:40): And so, what needs to happen, I believe, in this process is that some of these things are put together more tightly?

P: Is BSD free of any copyright violations?

Darl(17:50): I can't answer that right now. I haven't done the same kind ...

P: ... gone after end users. Are you interested in going after companies that sell Linux operating systems? Unix-like operating systems? Not companies that just use them?

Darl(18:00): We're just fundamentally not interested in tracking down end users like yourselves.

P: Can I have that in writing?

C: I've got it on tape.

P: Here's my question. It seems from all the things I've read, and all the research I've done that SCO is more interested in trying to get money back for the damages than for actually cleaning up the Linux code and making sure that everything's put in its place. Is that true, or are you?

Darl(18:28): As we get into July, we want to try and figure out methods how we can move forward. It's not ...

Darl: There's no doubt we've had significant damages. That's not the only goal in this process.

P: It seems you could say "lines this through this and this and this violate copyright", send that out. It doesn't violate any of give a chance to fix it. But it seems you're more interested in getting \$3 billion, than actually making Linux free of Unix.

Darl(18:54): No, I wouldn't say that.

P: After the dust settles, what becomes of SCO?

Darl: Well, I think SCO ...

P: Because, right now, I think lots of people are ??? Linux is what everyone uses these days, and SCO is doing this because Unix isn't selling. So after this lawsuit, I personally don't think a lot of people are going to be interested in buying SCO Unix. Except people who already have a strong basis.

Darl(19:22): And right now we think... We already know what people are buying from us, and seven of the largest retailers in the world use SCO Unix. McDonald's uses SCO Unix. Biotech uses SCO Unix.

P: But a lot of people are moving to Linux. So, they're looking for reasons to replace...

Darl(19:37): And so the point is there used to be hundreds of millions of dollars of revenue here. It's obviously come down. In terms of how we go forward,

P: ... competition...

Darl(19:47): So we need to step forward and say here's how we're moving forward with our version of Unix. Here's how we can work with Linux. Here's how this thing moves forward.

P: How are you going to work with Linux?

Darl(19:57): Well, stay tuned in July. That's really when we plan to come out with it.

Darl(20:00): Hey, I gotta run. Thank you guys. Appreciate ya.

P: Thanks so much.

P: Thanks for talking to us.

P: Thank you.

P: And thanks for explaining to us

Darl: Yeah, I mean I understand. It's a big issue. It's a big issue for all of us.

P: This is one of the biggest...

AP: But you said that the copyright issues that you're violating, it's not an issue for you.

Darl: And it is one of the biggest problems in industry, and that's why we all need to get it fixed together, and move forward.

AP: Is that a commitment to fix your copyright violations?

P: That's a good question.

Darl(20:28): We feel very comfortable with where we are with our IP on this.

AP: Rampant violation of the GPL.

P: Think that third parties will have a chance to go through the SCO source code, and see if they've done code violations of the GPL?

Darl(20:41): Yeah, well, our source code is protected material, so.

P: Like a third party that has...

Darl(20:46): Absolutely.

AP: but the fact that they've shipped Linux for years, and now are not willing to abide by its license, which means that the years they've supplied it they've been in violation.

P: ...applies to Linux

AP: They shipped Linux

Darl: They obviously have problems. Now one issue here is a distribution is not the same as a donation, right. Somebody donated code that is protected by us through agreements in there. When it goes in, it doesn't say "SCO protected code." We only found out about this a couple months ago. That's when we said "we've gotta stop this until we get this figured out."

P: How did you find out?

Darl(21:27): Well, what happened is after we filed the IBM lawsuit, we were in the process of ... This was... Clearly we found code that related to IBM. That is what led us to go into the lawsuit, and in the process of getting ready for that litigation, there was a deep dive that was going on, to comparing code bases between Linux and Unix, and it coughed up during that time/process.

P: Isn't it possible that someone was just inspired by work they'd done for other companies? Isn't that reasonable?

Darl(21:50): It's reasonable, except when the comment codes are the same, the humor lines in the comment code are the same, and the typos in the comment code are the same, then you start getting beyond... Ya know, it was kind of like, I learned this one day at school ... It becomes more of the... Those, to me, are really the DNA of the code here.

P: The question is "Can you say which one comes first?" For example, we know that we can see the change log on ...

Darl: Yeah, it's real clear.

P: can we tell that SCO isn't the one that ...

Darl: We've gone through this. really clear

P: Sounds like you're trying to work to a good solution.

P: ...IBM...

Darl: ...want to get this resolved, and ya know, we're working to that, and I appreciate you guys. You're on that end too.

P: The thing that we ask is that you just make it clear that you're attacking IBM, not us.

Darl(22:38): I appreciate what you're saying.

P:Thanks

P: Do you mind if we publish this?

Darl: You know, I said everything that I said, so you know ... I didn't put you under NDA, so obviously you guys will do whatever you're gonna do.

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