

<script> </script> <NOSCRIPT> <A HREF="http://ad.doubleclick.net/jump/N3263.Internet.com/B1371615.4;abr=!ie4;abr=!ie5;sz=728x90;ord=523393657?"> <IMG SRC="http://ad.doubleclick.net/ad/N3263.Internet.com/B1371615.4;abr=!ie4;abr=!ie5;sz=728x90;ord=523393657?" BORDER=0 WIDTH=728 HEIGHT=90 ALT="Click Here">Click Here</A> </NOSCRIPT>



Search Linux Today

search.internet.com

Linux News >

Developer

High Performance

Infrastructure

IT Management

Security

Storage

linux today Navigation

Home

Preferences

Contribute

Link to Us

Search

Jobs

RatesToGo

Great last minute rates world wide!

Knoppix Hacks



Knoppix Hacks is an invaluable collection of one hundred industrial-strength hacks for new Linux users, power users, and system administrators using--or considering using--the Knoppix Live CD. These tips and tools ...

Get it from Linux Central The /root. for Linux Resources

## Author of Ballmer-Cited Report Refutes Microsoft's FUD

Nov 19, 2004, 13 :45 UTC (5 Talkback [s]) (3869 reads)  
(Other stories by Brian Proffitt)

By Brian Proffitt  
Managing Editor

The author of a report allegedly cited by Microsoft CEO Steve Ballmer has his own thoughts on Ballmer's use of his material.

In a report filed by Reuters, Ballmer was quoted from a speech in Singapore at Microsoft's Asian Government Leaders Forum as stating that Linux violated more than 228 patents, and hinting that someday any government that might use Linux would face intellectual property litigation.

"Someday, for all countries that are entering the WTO (World Trade Organization), somebody will come and look for money owing to the rights for that intellectual property," Ballmer was quoted in the Reuters report.

Later in the day, Microsoft began to try and moderate what many perceived as a not-really-veiled threat to Linux and its ongoing adoption by world governments.

Ballmer was not making threats on behalf of Microsoft, it seemed, but rather was citing a report created by Open Source Risk Management (OSRM) earlier this year.

In a statement to the online

<script> document.write('<a href="http://clk.atdmt.com/NYC/go/ntroivzb00400120nyc/direct;wi.336;hi.280/01/825787659" target="\_blank"> </a>'); </script><noscript><a href="http://clk.atdmt.com/NYC/go/ntroivzb00400120nyc/direct;wi.336;hi.280/01/825787659" target="\_blank"> </a></noscript>

### Linux Reference Center

Sponsored By: Microsoft

Get the facts you need to make the choice between Windows and Linux. Just click on the whitepaper of your choice to download:

**Veritest: Independent Audit Measures Swifter, Easier Deployment for Microsoft Windows**

"Microsoft Windows Small Business Server 2003 vs. Red Hat Enterprise Linux ES 2.1 Deployment" says that in time and complexity, Windows is easier and faster to deploy.

**Yankee Group: Large Enterprises: Switching from Windows to Linux "Prohibitively Expensive, Extremely Complex, Provides No Tangible Business Gains"**

This two-part, non-sponsored report calculates that a major Linux deployment or switch from Windows is four times more expensive and takes three times longer than a Windows upgrade.

**Meta Group: Windows Server Offers Compelling Advantages over UNIX as ERP Hosting Platform.**

**IDC: Lower Windows Staffing Costs Provide TCO Advantage over Linux**

**Forrester: Detailed Financials Show Total Linux Costs Higher Than Windows Costs by 5 to 20 Percent**

**Bearing Point: Despite Perceptions, Licensing and Support Acquisition Costs Comparable for Windows Server, SUSE Linux, and Red Hat Enterprise Linux**

internet.commerce

Be a Commerce Partner

Domain Registration  
 Cheap Auto Insurance  
 Dental Insurance  
 Web Hosting Search  
 web hosting company  
 Auto Insurance  
 Car Donations  
 Televisions  
 Flooring  
 Search Web Hosting



Linux Today  
 Enterprise Linux Today  
 Apache Today  
 JustLinux.com  
 Linux Planet  
 PHPBuilder  
 BSD Central  
 All Linux Devices  
 Linux Central

Jobs.linuxtoday.com

HardwareCentral

Compare products, prices, and stores at Hardware Central!

**Computers**

Desktops, Mac & PC Notebooks, Monitors, Network Adapters, Firewalls, RAM, Networking Hubs & Switches, Network Accessories, Network Cables, more...

**Software**

Network Management Tools,

publication Microsoft Watch, a Microsoft spokesperson said "Steve (Ballmer) was speaking at the Asia Government Leaders Forum (in Singapore) and noted the recent OSRM report in answer to a question he was asked on Linux and licensing costs. It wasn't in the context or perspective of 'Microsoft saying this,' but rather 'here's what the industry is saying and it is a factor to consider.'"

This study, issued by OSRM in August, citing 283 non-court validated patents out there that could directly effect the contents of the Linux kernel. Non-court validated, according to Daniel Ravicher, Senior Counsel of the Free Software Foundation, and author of the OSRM report, means that the patents have been filed but they have never been tested in a court of law as being valid. 27 of those patents are held by Microsoft.

If Ballmer was quoting the study, then his numbers were off (his 228 vs. the study's 283). And the author of the study has his own interpretation of Ballmer's remarks.

"Microsoft is up to its usual FUD. Open source faces no more (if not less) legal risk than proprietary software. The market needs to understand that the study Microsoft is citing actually proves the opposite of what they claim it does," Ravicher said in a statement issued after business hours yesterday.

"There is no reason to believe that GNU/Linux has any greater risk of infringing patents than Windows, Unix-based or any other functionally similar operating system. Why? Because patents are infringed by specific structures that accomplishes specific functionality. Patents don't care how the infringing article is distributed, be it under an open source license, a proprietary license, or not at all. Therefore, if a patent infringes on Linux, it probably also infringes on Unix, Windows, etc.," he continued.

Ravicher also challenged Ballmer's choice of words in the Microsoft exec's Singapore speech.

"Ballmer makes a very bold statement by saying 'Linux infringes hundreds of patents,' Ravicher stated. "That is extremely different than saying 'Linux potentially infringes X patent,' because the requirement to prove infringement is much more difficult than the requirement to simply file a case claiming infringement. As the SCO saga shows, filing a case based on an allegation is one thing; proving the merits of the allegation in court is something completely different."

**Current Newswire:**

**eChannelLine: Linux is Fertile Territory for Resellers, Says Ingram Micro**

**Computerworld NZ: 'The Jury Is In' On Linux for the Enterprise, says BMC Chief**

**Yahoo!: OooFf! Bringing OpenOffice.org and Firefox to Retail Channels**

**eWeek: GPL 3 to Take on IP, Patents**

**Andrew Morton: Linux 2.6.10-rc2-mm3**

**LinuxWorld: Torvalds: "I'll Be Really Happy If Sun Ends Up Being A Good Open-Source Player"**

**CXOtoday: If Linux Infringes 200; Windows Infringes 2,000**

**CNET News: Open Source's Next Frontier**

**Linux Journal: An Introduction to Embedded Linux Development, Part 2**

**OneStat.com: Mozilla's Browsers Global Usage Share is 7.35 Percent According to OneStat.com**

Programming  
Tools, Internet &  
Communication  
Applications,  
Software Suites,  
Operating  
Systems, more...

Get the best price  
on Veritas Backup  
Exec For Windows  
Servers or search  
for other IT  
Management tools

## linuxcentral.com: New Products



- [Point & Click Linux!](#)
- [Windows to Linux Migration Toolkit](#)
- [Building Applications with the Linux Standard Base](#)
- [PHP 5 Power Programming](#)
- [Gentoo 2004.3 X86 - Athlon XP \(2 CD set\)](#)
- [Gentoo Linux 2004.3 AMD64 \(2 CD set\)](#)
- [Gentoo Linux 2004.3 Pentium3 \(2 CD set\)](#)
- [Mandrakelinux 10.1 for PPC \(3 CD set\)](#)
- [Gentoo Linux 2004.3 Pentium4 \(2 CD set\)](#)
- [Gentoo Linux 2004.3 i686 \(2 CD set\)](#)

**Search for products**

Ballmer's use of the study as a source was completely off the mark, according to its author, since it was not meant to be a negative threat to Linux at all but, rather, a constructive warning.

"He also misconstrues the point of the OSRM study, which found that Linux *potentially* (not definitely) infringes 283 un-tested patents, while not infringing a single court-validated patent. The point of the study was actually to eliminate the FUD about Linux' alleged legal problems by attaching a quantifiable measure vs. the speculation. And the number we found, to anyone familiar with this issue, is so average as to be boring; **almost any piece of software potentially infringes at least that many patents.**

"Our intent was (1) confirm what everyone in the open source community already knew, that open source software is not immune from the perils of the patent system in which common software can be potentially infringed by hundreds of patents (while most pharmaceuticals are only potentially infringed by a few); and, (2) to reinforce the fact that the patent system allows patent holders to harass open source software with claims of patent infringement, just as they harass proprietary software," Ravicher explained.

Whatever Ballmer meant to say in his speech, Ravicher firmly believes that the whole notion of open source software being somehow more dangerous to use than proprietary software is entirely incorrect. And he cites history to prove his point.

"If one believes the proof is in the pudding, open source software has much less to worry about from patents than proprietary software. **Consider this--not a single open source software program has ever been sued for patent infringement, much less be found to infringe. On the contrary, proprietary software, like Windows, is sued and found guilty of patent infringement quite frequently (e.g., Eolas' patent being infringed by Windows, Kodak's patent being infringed by Java),"** he concluded.

### Related Stories:

[MicrosoftWatch: Is Microsoft Rattling the Linux-Patent Sabers?\(Nov 18, 2004\)](#)

[Reuters: Microsoft's Ballmer Warns Asia of Linux Lawsuits\(Nov 18, 2004\)](#)



Email this article to a colleague



Go to a printable version of this story

Index Mode	Flat Mode	Thread Mode	Thread Flat
Talkback(s)		Name and Date	
<input type="checkbox"/>	We'll See if C(ZD)-Net has the balls to run th	Nicholas Donovan	Nov 19, 2004, 14:24:27
<input type="checkbox"/>	Your words at your door....	GH	Nov 19, 2004, 15:28:42
<input type="checkbox"/>	228 versus 283	TM	Nov 19, 2004, 16:17:47
<input type="checkbox"/>	the proof of the pudding is in the eating	alice sysadmin	Nov 19, 2004, 18:06:28
<input type="checkbox"/>	Re: 228 versus 283--a dirty secret?	Matthew C. Tedder	Nov 20, 2004, 08:22:49
<a href="#">Home</a>   <a href="#">Search Talkbacks</a>   <a href="#">Customize View</a>   <a href="#">Top of Page</a>			

### Enter your comments below:

Your Name:



- linuxtoday Newsletters
- Subscribe News
- Subscribe PR
- Subscribe Security
- Subscribe Jobs

- internet.com
- Developer
- Downloads
- International
- Internet Lists
- Internet News
- Internet Resources
- IT
- Linux/Open Source
- Small Business
- Windows Technology
- Wireless Internet
- xSP Resources
- Search internet.com
- Advertise
- Corporate Info
- Newsletters
- Tech Jobs
- E-mail Offers

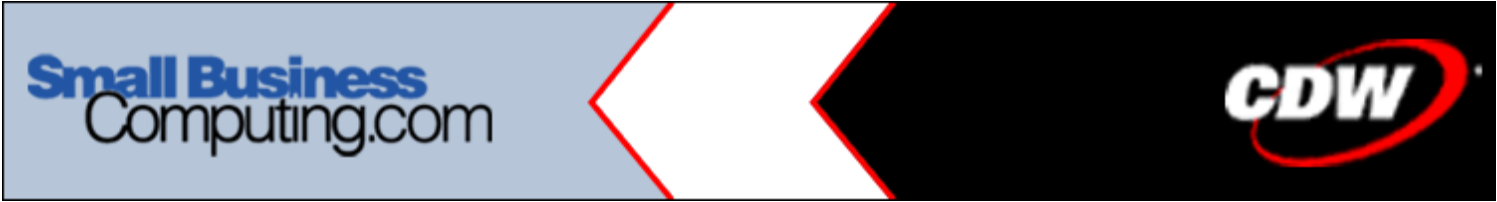
Your Email Address:

Subject:

CC: [will also send this talkback to an E-Mail address]

Comments:

Tags allowed: <I>, <B> and <U>. See our [talkback-policy](#) for more about talkback content.



All times are recorded in UTC.  
Linux is a trademark of Linus Torvalds.  
Powered by Linux, Apache and PHP

**JupiterWeb networks:**



**Search JupiterWeb:**

Jupitermedia Corporation has four divisions:  
[JupiterWeb](#), [JupiterResearch](#), [JupiterEvents](#) and [JupiterImages](#)

Copyright 2004 Jupitermedia Corporation All Rights Reserved.  
[Legal Notices](#), [Licensing](#), [Reprints](#), & [Permissions](#), [Privacy Policy](#).

[Jupitermedia Corporate Info](#) | [Newsletters](#) | [Tech Jobs](#) | [E-mail Offers](#)