



AT&T
Technology System

Computer Systems

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FEB 12 1985

MR. ROY L. TOWERS, JR.
Planned Purchasing Program Specialist
University of California, Berkeley
Office of the Materiel Manager
2510 Channing Way
Berkeley, California 94720

Dear Mr. Towers:

This responds to your letter to me of December 17, 1984, which responded to my July 30, 1984 letter to Ms. Pauline Schwartz.

You state that the University of California cannot adhere to the "terms" set forth in my July 30, 1984 letter because such terms represent a unilaterally imposed amendment to the August 1, 1981 Administrative Software Agreement relating to UNIX/32V* Time-Sharing System, Version 1.0 ("the 1981 agreement"). (You are also licensed to use such software under the April 1, 1979 Educational Software Agreement ("the 1979 agreement").) We do not agree with your characterization of such letter as a unilateral amendment.

The 1979 and 1981 agreements grant to the University of California certain limited rights to use LICENSED SOFTWARE. There are specific provisions in the agreements (i) prohibiting use of LICENSED SOFTWARE by or for any third person (last sentence of Section 2.01 in both agreements), (ii) requiring that LICENSED SOFTWARE be held in confidence (Sections 5.06 in the 1981 agreement and Section 4.06 in the 1979 agreement) and requiring that LICENSED SOFTWARE not be sold, leased, or otherwise transferred or disposed of (Section 5.10 in the 1981 agreement and Section 4.10 in the 1979 agreement).

Notwithstanding these provisions, it has been our policy for a number of years to permit our licensees for a particular software product to furnish their derivative versions of such software products to our other licensees for the same software product. Such policy was not reflected in the language of the software agreements we used in 1979 and 1981, but our software agreements now cover this point. (See Section 7.06(b) in the attached specimen copy of our current Educational Software Agreement.) Of course, you were operating under that policy when you distributed your version of 32V to our other licensees for 32V.

*UNIX is a trademark of AT&T Bell Laboratories.

MR. ROY L. TOWERS, JR.

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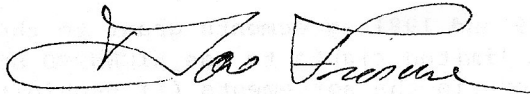
After 1981 we introduced new software products, such as UNIX System III and UNIX System V, that generally superseded 32V. We gave you specific permission pursuant to a letter agreement dated April 5, 1982 to distribute your version of 32V to our licensees for UNIX System III, and pursuant to a letter agreement dated September 15, 1983 to distribute your version of 32V to our licensees for UNIX System V. Copies of such letter agreements are attached.

The original versions of UNIX System V were for Digital Equipment Corporation (DEC) machines. We have never given you permission to distribute your version of 32V to our licensees for the versions of UNIX System V intended for AT&T's 3B computers and computers based on Motorola's M68000 product.

I think it is apparent from the above that we have not attempted to unilaterally amend the 1981 agreement. On the contrary, my July 30, 1984 letter simply makes clear that the permission we granted to you in our September 15, 1983 letter does not extend to our licensees for versions of UNIX System V not intended for use on DEC computers.

Please contact me if you have further questions.

Very truly yours,



D. W. FRASURE
Software Sales Manager

Att.

C. Ken McDonald

W. J. ...

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