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DISTRICT OF UTAH
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Attorneys for Plaintiff The SCO Group, Inc.

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

THE SCO GROUP, INC.,
a Delaware corporation,

Plaintiff,

vs.

INTERNATIONAL BUSINESS MACHINES
CORPORATION, a New York corporation,

Defendant.

**PLAINTIFF'S MOTION FOR
ENLARGEMENT OF TIME TO
AMEND PLEADINGS AND ADD
PARTIES**

Case No. 03-CV-0294

Hon: Dale A. Kimball

Plaintiff/Counterclaim Defendant, The SCO Group, Inc. ("SCO"), through its undersigned counsel, pursuant to Rule 6(b) of the Federal Rules of Civil Procedure and applicable Local Rules, files this Motion for Enlargement of Time to Amend Pleadings and Add Parties and in support states:

1. On June 19, 2003, the parties jointly submitted the Attorney's Planning Report and Proposed Scheduling Order. At that time, IBM had filed an answer and the case was fully at issue.

2. On July 10, 2003, a Scheduling Order was entered based upon the Attorney's Planning Report. The cut off date to amend pleadings as agreed to by the parties and set forth in the Scheduling Order was October 1, 2003.

3. The use of this date assumed that a significant number of documents would have been produced by the parties prior to October 1, 2003, enabling the parties to make any necessary amendments to the pleadings, including the addition of parties.

4. To date, SCO has not received a single requested document from IBM and has been informed that it may receive its first production from IBM at the end of this week.¹

5. In addition, other circumstances have drastically changed since the time the parties submitted the Planning Report. Specifically, IBM recently has filed an eleven count counterclaim, including four separate claims of patent infringement. Thus, the parties will require additional discovery far exceeding what the parties contemplated at the time they submitted the Planning Report. This additional discovery could result in the need to add parties or further amend the pleadings. Moreover, SCO has not yet filed an answer to IBM's counterclaims, so the current deadline of October 1 to amend pleadings or add parties could theoretically preclude SCO from ever amending its answer or affirmative defenses to IBM's counterclaims. Such a result would be contrary to the letter and spirit of the Federal Rules of Civil Procedure, particularly the liberal standard applied to Rule 15.

6. SCO has requested that IBM agree to an enlargement of time for filing motions to amend pleadings and add parties. SCO would, of course, agree that any enlargement of time would also apply to IBM.

7. Counsel for IBM today advised that it will not agree.

¹ Unlike IBM, SCO has been providing discovery. SCO has produced 46 CDs full of documents in electronic form to IBM pursuant to Defendant IBM's First Set of Interrogatories and First Request for Production of Documents. Tens of thousands of more documents are expected to be produced by SCO to IBM early next week.

8. No prejudice will come to IBM by the granting of this motion. The current discovery cut off date is not until August 4, 2004 for fact discovery and October 22, 2004 for expert discovery, more than one year from now.

9. Great prejudice will be suffered by SCO if it is forced to amend its pleadings without the benefit of any discovery whatsoever and without ever having the opportunity to amend any answer to IBM's counterclaims.

10. SCO respectfully requests an extension of time to February 4, 2004 to file its motion to amend pleadings, including any motion to add parties.

DATED this 23rd day of September, 2003.

Respectfully submitted,

By:


HATCH, JAMES & DODGE, P.C.
Brent O. Hatch
Mark F. James

BOIES, SCHILLER & FLEXNER, L.L.P.
Stephen N. Zack
Mark J. Heise

Counsel for Plaintiff/Counterclaim defendant

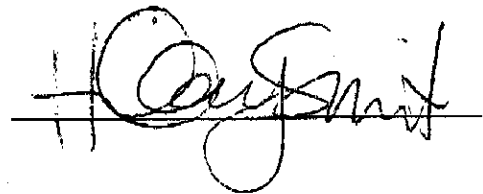
CERTIFICATE OF SERVICE

Plaintiff, The SCO Group, Inc. hereby certifies that a true and correct copy of
PLAINTIFF'S MOTION FOR ENLARGEMENT OF TIME TO AMEND PLEADINGS AND
ADD PARTIES and a Proposed Order was served on Defendant International Business Machines
Corporation on this 26th day of September, 2003, by U.S. Mail, first class, postage prepaid, on
their counsel of record below:

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A handwritten signature in black ink, appearing to read "H. Coyle Smith", written over a horizontal line.