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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH**

THE SCO GROUP, INC.

Plaintiff/Counterclaim-Defendant,

v.

INTERNATIONAL BUSINESS
MACHINES CORPORATION,

Defendant/Counterclaim-Plaintiff.

**DECLARATION OF
MARK F. JAMES**

**FILED IN REDACTED FORM
[ORIGINALLY FILED UNDER SEAL]**

Case No. 2:03CV0294DAK
Honorable Dale A. Kimball
Magistrate Judge Brooke C. Wells

FILED IN UNITED STATES DISTRICT COURT, DISTRICT OF UTAH

MAR 16 2007

D. MARK JONES, CLERK
BY *[Signature]*

DEPUTY CLERK

SEALED

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Defendant/Counterclaim-Plaintiff.

**DECLARATION OF
MARK F. JAMES REGARDING
SCO'S MOTION FOR
RECONSIDERATION OF THE
ORDER DENYING SCO'S MOTION
FOR RELIEF FOR IBM'S
SPOILIATION OF EVIDENCE**

[FILED UNDER SEAL]

Case No. 2:03CV0294DAK
Honorable Dale A. Kimball
Magistrate Judge Brooke C. Wells

I, Mark F. James, declare as follows:

1. I am a citizen of the United States, am over the age of 21, and am competent to testify to the matters set forth herein.

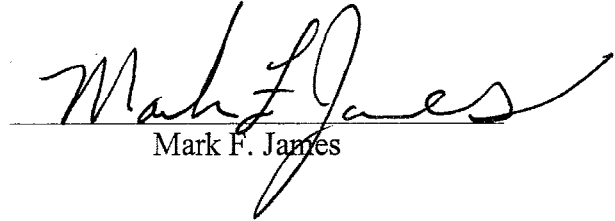
2. I am an attorney at law duly licensed to practice before all the Courts of the State of Utah, and an attorney with the firm of HATCH, JAMES & DODGE PC, counsel for the Plaintiff/Counterclaim-Defendant, The SCO Group, Inc., in the pending motion.

3. Attached as hereto and filed herewith are true and correct copies of the following documents:

<u>EXHIBIT</u>	<u>DOCUMENT DESCRIPTION</u>
1	January 18, 2007 Hearing Transcript
2	"Interview: Irwin Lee Williams III, March 12, 2002, located at http://kerneltrap.org/comment/reply/80
3	February 6, 2004 Hearing Transcript Excerpts
4	September 22, 2006 Deposition Transcript Excerpts of Marc Rochkind
5	Email from Randy Swanberg dated April 8, 2003, bearing Bates number 181019724, and marked as Deposition Exhibit 682
6	November 18, 2005 Deposition Transcript Excerpts of Daniel D. Frye
7	December 2, 2005 Deposition Transcript Excerpts of Paul E. McKenney
8	Email from gone@linux.ibm.com dated November 13, 2001, bearing Bates number 181524791-93, and marked as Deposition Exhibit 435
9	Consulting Times, <u>Inside IBM – Dan Frye and the Linux Technology Center</u> , located at www.consultingtimes.com/articles/ibm/frye/fryeinterview.html

4. I declare under penalty of perjury that the foregoing is true and correct.

Dated this 16th day of March, 2007.



Mark F. James

CERTIFICATE OF SERVICE

Plaintiff/Counterclaim-Defendant, The SCO Group, Inc., hereby certifies that a true and correct copy of the foregoing was served on Defendant/Counterclaim-Plaintiff, International Business Machines Corporation, on this 21st day of March, 2007, via CM/ECF to the following:

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