

# **EXHIBIT 6**

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February 12, 2004

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## *VIA FACSIMILE AND MAIL*

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## *VIA FACSIMILE AND MAIL*

Mark J. Heise  
BOIES, SCHILLER & FLEXNER, LLP  
One International Place  
100 SE Second Street, Suite 2800  
Miami, Florida 33131

Re: *SCO v. IBM*

Dear Brent and Mark:

This responds to Kevin McBride's letter to me dated February 11, 2004.

As I have advised Kevin, IBM is generally agreeable to an order limiting the parties' public statements regarding the litigation, as suggested by Judge Wells. Based upon SCO's statements in chambers on February 6, 2004, and Kevin's statements to me, however, it appears that SCO is not agreeable to the entry of such an order. If that is in fact SCO's position, then we would appreciate your just saying so without invoking misplaced concerns of conspiracy between IBM and third parties. Contrary to Kevin's suggestion, which is entirely unsupported, IBM is not causing any third party (including those listed in Kevin's letter), through "funding" or otherwise, to make statements on its behalf about the litigation.

We understand that SCO is concerned about the public's criticism of its case. But there is nothing we can do about that, especially since, as you know, we believe SCO's allegations are meritless and public criticism deserved. Unless SCO is prepared to withdraw its claims, the best way, in our judgment, for SCO to avoid public criticism is to cease making public statements about its case. The criticism SCO seeks to avoid directly derives, after all, from its own public relations efforts. So long as the limitation is reciprocal, IBM is prepared to limit its own statements about the case. Like Judge Wells, we see no reason for this case to be tried in the press.

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LLP

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As you know, the parties are not entitled to know the identity of one another's non-testifying consultants. Thus, insofar as Kevin's letter requests that IBM unilaterally disclose the identity of its non-testifying experts, it seeks improperly to invade the privilege. If, instead, SCO is proposing that the parties jointly waive the privilege and exchange the names of all of their non-testifying consultants, please let me know and we will consider the proposal. What we can tell you without waiving the privilege is that, as suggested above, IBM has neither retained nor authorized any non-testifying consultant to speak on its behalf about this litigation (again, including the persons listed in Kevin's letter).

We believe the parties should report back to Judge Wells promptly on this issue, and we would appreciate hearing back from you by noon tomorrow.

Very truly yours,



Todd M. Shaughnessy

cc: Kevin McBride (by facsimile)  
David Marriott  
Amy Sorenson