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**UNITED STATES DISTRICT COURT**

**FOR THE DISTRICT OF UTAH**

THE SCO GROUP, INC.,

Plaintiff/Counterclaim-  
Defendant,

v.

INTERNATIONAL BUSINESS  
MACHINES CORPORATION,

Defendant/Counterclaim-  
Plaintiff.

**MOTION FOR LEAVE TO FILE SUR-  
REPLY**

Civil No. 2:03CV-0294DAK

Honorable Dale A. Kimball

Magistrate Judge Brooke C. Wells

Defendant and Counterclaim-Plaintiff International Business Machines (“IBM”), through counsel, hereby moves the Court for leave to file a sur-reply memorandum in response to Plaintiff and Counterclaim-Defendant The SCO Group, Inc.’s (“SCO”) reply memorandum in further support of its objections to the magistrate judge’s order on IBM’s motion to confine.

IBM’s opposition brief debunks the arguments offered by SCO in support of its objections to the Order and its motion to amend its Final Disclosures. Nothing in SCO’s reply papers revives any of SCO’s arguments or justifies the relief it seeks. But SCO’s reply papers distort Judge Wells’ order, misstate IBM’s position and mischaracterize the applicable law and evidence. In this regard, SCO further claims that IBM failed to respond to each of the arguments advanced in SCO’s objections, and implies that IBM has therefore conceded those points SCO contends IBM failed to answer. That is wrong. In fact, IBM responded to SCO’s arguments, and endeavored to do so efficiently, affording them the attention they deserved, and no more. Thus, IBM respectfully requests that it be granted leave to file a sur-reply memorandum approximately 40 pages in length.

DATED this 20th day of April, 2007.

SNELL & WILMER L.L.P.

/s/ Amy F. Sorenson  
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**CERTIFICATE OF SERVICE**

I hereby certify that on the 20th day of April, 2007, a true and correct copy of the foregoing was electronically filed with the Clerk of the Court and delivered by CM/ECF system to the following:

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