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

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**THE SCO GROUP, INC.,**

**Plaintiff/Counterclaim-  
Defendant,**

**vs.**

**INTERNATIONAL BUSINESS  
MACHINES CORPORATION,**

**Defendant/Counterclaim-  
Plaintiff.**

**ORDER**

**Case No. 2:03CV294 DAK**

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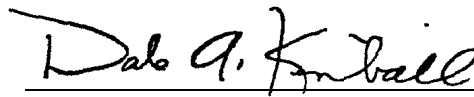
This matter is before the court on Plaintiff/Counterclaim-Defendant The SCO Group, Inc.'s ("SCO") Motion for Modification of the Stipulated Protective Order. SCO sought to use and disclose in its bankruptcy proceedings documents that IBM designated as confidential pursuant to the Protective Order in this action. On July 21, 2009, IBM opposed the motion. And, on July 22, 2009, IBM also notified the court that the Honorable Kevin Gross, United States Bankruptcy Judge for the District of Delaware, entered an order in SCO's bankruptcy case on July 21, 2009, stating that "[t]he Court will not hear testimony or admit into evidence reports of affidavits/declarations addressing the merits of Debtors' claims against IBM, Novell, Red Hat and/or AutoZone. Any testimony or evidence on the strengths or weaknesses of the cases would inappropriately require the Court to make findings on the merits of the litigations without a full record."

IBM therefore suggested in its July 22, 2009 Letter that the Order of the Bankruptcy Court rendered moot SCO's pending motion. SCO, however, has not withdrawn its motion. On the other hand, it has also not responded to IBM's July 22, 2009 Letter or otherwise pursued its motion, demonstrating to the court that SCO agrees with IBM's assessment that the motion is now moot.

Accordingly, for the foregoing reasons, SCO's Motion for Modification of the Stipulated Protective Order [docket # 1082] is DENIED AS MOOT.

DATED this 21<sup>st</sup> day of August, 2009.

BY THE COURT:

A handwritten signature in black ink that reads "Dale A. Kimball". The signature is written in a cursive style with a horizontal line underneath it.

DALE A. KIMBALL  
United States District Judge