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DISTRICT COURT  
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SNELL & WILMER LLP  
Alan L. Sullivan (3152)  
Todd M. Shaughnessy (6651)  
Amy F. Sorenson (8947)  
15 West South Temple, #1200  
Salt Lake City, Utah 84101-1004  
Telephone: (801) 257-1900  
Facsimile: (801) 257-1800

CRAVATH, SWAINE & MOORE LLP  
Evan R. Chesler (admitted pro hac vice)  
David R. Marriott (7572)  
Worldwide Plaza  
825 Eighth Avenue  
New York, NY 10019  
Telephone: (212) 474-1000  
Facsimile: (212) 474-3700

*Attorneys for Defendant/Counterclaim-Plaintiff  
International Business Machines Corporation*

**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  
TODD M. SHAUGHNESSY**

Civil No. 2:03CV-0294 DAK  
  
Honorable Dale A. Kimball  
  
Magistrate Judge Brooke C. Wells

I, Todd M. Shaughnessy, declare as follows:

1. I represent IBM in the lawsuit brought by SCO against IBM, titled The SCO Group, Inc. v. International Business Machines Corporation, Civil No. 2:03CV-0294 DAK (D. Utah 2003). This declaration is submitted in support of Defendant/Counterclaim-Plaintiff IBM's

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Cross-Motion for Partial Summary Judgment on its Claim for Declaratory Judgment of Non-infringement.

2. Attached hereto are true and correct copies of the following documents:

- (a) Exhibit 1 is “SCO Linux Educational Materials: Learning Unit 001”, bates numbered SCO1355589-SCO1355653.
- (b) Exhibit 2 is SCO’s Answer to IBM’s Second Amended Counterclaims, dated April 23, 2004.
- (c) Exhibit 3 is a printout from SCO’s website.
- (d) Exhibit 4 is the Form 10-K/A filed by Caldera Systems, Inc. for the fiscal year ending October 31, 2000.
- (e) Exhibit 5 is SCO’s Second Amended Complaint, dated February 27, 2004.
- (f) Exhibit 6 is the Form 10-K filed by Caldera International, Inc. for the fiscal year ending October 31, 2002.
- (g) Exhibit 7 is a press release titled “Caldera, Conectiva, SuSE, Turbolinux Partner To Create UnitedLinux, And Produce A Uniform Version Of Linux For Business”, dated May 30, 2002.
- (h) Exhibit 8 is a press release titled “The SCO Group Name Change Approved by Shareholders”, dated May 20, 2003.
- (i) Exhibit 9 is SCO’s Complaint filed in the District Court of Salt Lake County, Utah, Third Judicial District on March 6, 2003.
- (j) Exhibit 10 is a letter from D. McBride to L. Noto, dated May 12, 2003.
- (k) Exhibit 11 is “Event Transcript: SCO Group (SCOX) Conference Call”, dated July 21, 2003.

- (l) Exhibit 12 is a transcript of the December 5, 2003 hearing before Magistrate Judge Wells.
- (m) Exhibit 13 is a form letter from R. Tibbitts to “Linux User”, dated December 19, 2003.
- (n) Exhibit 14 is the Complaint filed on March 2, 2004 by SCO against AutoZone, Inc., in the United States District Court for the District of Nevada, titled The SCO Group, Inc. v. AutoZone, Inc., Case No. CV-S-04-0237 (D. Nev.).
- (o) Exhibit 15 is IBM’s Second Amended Counterclaims, dated March 29, 2004.
- (p) Exhibit 16 is SCO’s Memorandum in Support of Motion to Dismiss or Stay Count Ten of Plaintiff IBM’s Second Amended Counterclaims Against SCO, dated April 23, 2004.
- (q) Exhibit 17 is the Complaint filed on August 4, 2003 by Red Hat, Inc. against SCO in the United States District Court for the District of Delaware, titled Red Hat, Inc. v. The SCO Group, Inc., Civ. 03-772 (D. Del.).
- (r) Exhibit 18 is Defendant The SCO Group, Inc.’s Opening Brief in Support of its Motion to Dismiss in Red Hat, dated September 15, 2003.
- (s) Exhibit 19 is the Memorandum Order issued by Judge Sue L. Robinson in Red Hat on April 6, 2004.
- (t) Exhibit 20 is an article by Lisa M. Bowman titled “SCO Puts Disputed Code in the Spotlight” from CNET News.com, dated August 18, 2003.
- (u) Exhibit 21 is an article by Antone Gonsalves titled “SCO To Release Disputed Linux Code This Week” from InternetWeek, dated June 2, 2003.

(v) Exhibit 22 is an article by Lisa M. Bowman and Robert Lemos titled “Linux Community Scoffs at SCO’s Evidence” from The Globe and Mail, dated August 21, 2003.

(w) Exhibit 23 is an article by Sam Williams titled “SCO, Open Source and the World” from Salon.com, dated December 23, 2003.

(x) Exhibit 24 is an article by Jed Boal titled “Utah Software Company Suing IBM” from KSL.com, dated November 13, 2003.

(y) Exhibit 25 is an article by Maureen O’Gara titled “SCO Files for AIX Injunction against IBM” from LinuxWorld.com, dated June 16, 2003.

(z) Exhibit 26 is SCO’s Supplemental Response to Defendant’s First Set of Interrogatories, dated October 23, 2003.

(aa) Exhibit 27 is SCO’s Revised Supplemental Response to Defendant’s First and Second Set of Interrogatories (excluding printouts of source code), dated January 15, 2004.

(bb) Exhibit 28 is a letter from B. Hatch to T. Shaughnessy, dated April 19, 2004.

(cc) Exhibit 29 is a letter from M. Heise to D. Marriott, dated February 4, 2004.

(dd) Exhibit 30 is an article by Roger Parloff titled “Gunning for Linux” from Fortune, dated May 17, 2004.

(ee) Exhibit 31 is an article by Maureen O’Gara titled “SCO’s Lawyer Speaks, Says Nothing” from LinuxWorld.com, dated March 21, 2003.

(ff) Exhibit 32 is an English translation of an article by Holger Dambeck, titled “Linux Hunter SCO Puts Everything on the Line” from Spiegel Online, dated April 13, 2004.

(gg) Exhibit 33 is IBM's Second Set of Interrogatories and Second Request for the Production of Documents, dated September 16, 2003.

(hh) Exhibit 34 is SCO's Supplemental Response to Defendant's Second Set of Interrogatories and Second Request for the Production of Documents, dated October 23, 2003.

(ii) Exhibit 35 is IBM's Memorandum in Support of Second Motion to Compel Discovery, dated November 6, 2003.

(jj) Exhibit 36 is the Order Granting IBM's Motion to Compel Discovery and Requests for Production of Documents, dated December 12, 2003.

(kk) Exhibit 37 is SCO's Notice of Compliance with Court Order of December 12, 2003, dated January 12, 2004.

(ll) Exhibit 38 is IBM's Report on SCO's Compliance with the Court's December 12, 2003 Order, dated February 5, 2004.

(mm) Exhibit 39 is a transcript of the February 6, 2004 hearing before Magistrate Judge Wells.

(nn) Exhibit 40 is the Order Regarding SCO's Motion to Compel Discovery and IBM's Motion to Compel Discovery, dated March 3, 2004.

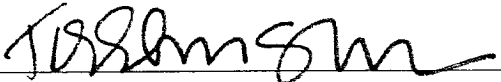
(oo) Exhibit 41 is the Declaration of Chris Sontag, dated April 19, 2004.

(pp) Exhibit 42 is IBM's Answer to the Amended Complaint and Counterclaim-Plaintiff IBM's Counterclaims Against SCO, dated August 6, 2003.

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

Executed: May 13<sup>th</sup> 2004.

Salt Lake City, Utah



Todd M. Shaughnessy

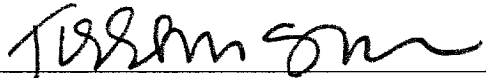
CERTIFICATE OF SERVICE

I hereby certify that on the 18<sup>th</sup> day of May, 2004, a true and correct copy of the foregoing was sent by U.S. Mail, postage prepaid, to the following:

Brent O. Hatch  
Mark F. James  
HATCH, JAMES & DODGE, P.C.  
10 West Broadway, Suite 400  
Salt Lake City, Utah 84101

Stephen N. Zack  
Mark J. Heise  
BOIES, SCHILLER & FLEXNER LLP  
100 Southeast Second Street, Suite 2800  
Miami, Florida 33131

Kevin P. McBride  
1299 Ocean Avenue, Suite 900  
Santa Monica, California 90401

  
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