

BOIES, SCHILLER & FLEXNER LLP
NEW YORK WASHINGTON DC FLORIDA CALIFORNIA NEW HAMPSHIRE

May 26, 2004

VIA FACSIMILE

Mr. Christopher Kao
Cravath, Swaine & Moore
825 Eighth Avenue
New York, New York 10019-7475

RE: SCO v. IBM; IBM v. SCO
Case No. 2:03CV - 0294 DAK

Dear Chris:

This letter responds to yours of May 25, 2004. On your first topic regarding the Free Software Foundation's documents, I have enclosed a copy of the Agreement. If it is acceptable to you, please forward your signed copy to Daniel Ravicher and send me a signed copy for our files. Upon receipt of their documents, we will provide you with a copy. On the issue of reimbursement for copying expenses, we certainly agree with your suggestions when a particularly large volume of documents is produced.

As for the depositions noticed next week, Phil Langer lives in [REDACTED], so his deposition will need to be re-noticed for some other date at that location. Similarly, Greg Pettit lives in [REDACTED] so his deposition will need to be rescheduled for a later date at that location. Although not noticed for next week, Larry Gasparo lives in [REDACTED] and would need to be taken there. As an alternative, I may be able to have all three of these individuals available for deposition at our offices in Short Hills, New Jersey. If I can do so, they would like to have the depositions taken at or about the same time. Is there a two or three day period (depending on how long you think the depositions would last) when you would like to reschedule them?

At this time, I have additional information regarding other depositions that will be helpful for you in re-noticing depositions:

1. Mike Davidson lives in [REDACTED] and I have not yet been able to determine his availability for deposition as scheduled on June 15, 2004. He is out of the office until June 2, so I will contact him upon his return.
2. Jay Petersen lives in [REDACTED] and is currently available on his scheduled deposition date of June 22. If, however, because his deposition needs to be moved based on his location, please note that he is not available from June 28 through July 10. His deposition can be rescheduled at our offices in Short Hills, New Jersey.

BOIES, SCHILLER & FLEXNER LLP

Mr. Christopher Kao
May 26, 2004
Page 2

3. Greg Anderson is no longer with SCO.
4. Jeff Hunsaker is currently set for June 24, 2004, but he is unavailable at that time. For purposes of rescheduling, Mr. Hunsaker is currently unavailable from June 21 through June 25, 28, July 8 and 9 and July 30 through August 6.
5. John Terpstra is no longer with SCO.
6. Wolf Bauer needs to have his deposition rescheduled for New Jersey. July 1 currently is acceptable for him, but he is otherwise unavailable in July and August. He has dates in June, however, when he is available.

The remaining individuals you have identified that are affiliated with SCO, including Ralph Yarro, are currently available during their scheduled time. If, however, any of their schedules change, I will notify you promptly so that we may properly coordinate the rescheduling.

On another discovery matter, Amy Sorenson wrote on May 21, 2004 about Chris Sontag's code comparisons. These documents may be found as SCO1508000 to SCO1508006. SCO likewise has a question about a particular document; specifically, the 10 page memo required to be produced pursuant to the Court's March 3, 2004 Order. We have located drafts of apparently similar documents but have not seen what was actually presented on December 19, 1999. Please identify the Bates numbers for this document.

Please feel free to call if you have any questions.

Sincerely,



Mark J. Heise

MJH/vb