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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH

THE SCO GROUP, INC.

Plaintiff/Counterclaim-  
Defendant,

vs.

INTERNATIONAL BUSINESS  
MACHINES CORPORATION,

Defendant/Counterclaim-  
Plaintiff.

**EX PARTE MOTION FOR LEAVE  
TO FILE OVER-LENGTH  
MEMORANDUM**

**Civil No. 2:03CV0294 DAK**

**Honorable Dale A. Kimball**

**Magistrate Judge Brooke Wells**

Plaintiff/Counterclaim-Defendant The SCO Group (“SCO”) hereby moves the Court pursuant to District Court Rule 7-1(e) for leave to file an over-length Memorandum in Opposition to Defendant International Business Machines’ Motion for Partial Summary Judgment on its Tenth Counterclaim for Declaratory Judgment of Non-Infringement and in Support of its Rule 56(b) Motion. SCO has combined argument on both Motions for the Court’s convenience.

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In its Memorandum in Support of Motion for Partial Summary Judgment, IBM requests summary judgment under Rule 56 on the merits and alternatively seeks the sanction of dismissal under Rule 37(b)(2). IBM's Rule 56 claim is based on its position that SCO has purportedly not produced any evidence of IBM's copyright infringement. IBM's alternative claim for sanctions under Rule 37(b)(2) is based on its position that if SCO were now to come forward with evidence in opposition to IBM's Motion, SCO should be sanctioned for allegedly failing to comply with its discovery obligations while purportedly having certified full compliance to the Court. Thus, SCO must address IBM's legal and factual arguments under Rule 56 and also address IBM's request for sanctions under Rule 37(b)(2). In responding to these two claims, SCO must address IBM's numerous misstatements and mischaracterizations of the record and provide a detailed analysis of how SCO has fully complied with its discovery obligations.

Moreover, as part of its response to IBM's Motion, SCO has filed a motion under Rule 56(f). Rather than file a separate memorandum, SCO has included argument in support of its Rule 56(f) Motion in its Memorandum in Opposition to IBM's Summary Judgment Motion.

As SCO must address multiple issues and place them in context for the Court, SCO respectfully requests leave to file an over-length memorandum. SCO's Memorandum now contains 48 pages of argument exclusive of statement of facts, face sheet and table of contents. SCO respectfully submits that the excess length is necessary to fully address the issues.

**CERTIFICATE OF SERVICE**

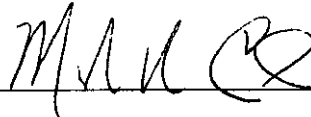
Plaintiff, The SCO Group, hereby certifies that a true and correct copy of **EX PARTE MOTION FOR LEAVE TO FILE OVER-LENGTH MEMORANDUM** was served on Defendant International Business Machines Corporation on the 9th day of July, 2004, as follows:

**BY HAND DELIVERY:**

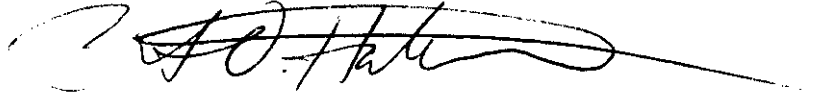
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DATED this 8<sup>th</sup> day of July, 2004.



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