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FILED IN UNITED STATES DISTRICT COURT, DISTRICT OF UTAH RECEIVED CLERK

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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**

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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 IBM’s Motion for Summary Judgment on SCO’s Breach of Contract Claims.

SCO’s contract-based claims are at the heart of this case. IBM has now moved for summary judgment on those claims in a 75-plus page memorandum that raises numerous issues and arguments, many of which IBM presents with little context or explanation. In addition, IBM has submitted several declarations that raise additional issues in purported support of IBM’s motion. Given the importance of the issues to SCO, it is necessary for SCO in its Opposition Memorandum to fully address, clarify, place in context and then fully rebut all of IBM’s arguments including those raised in the numerous declarations IBM filed.

To fully address the issues and to provide the Court with the necessary factual background, SCO respectfully requests leave to file an over-length opposition memorandum. SCO’s Opposition Memorandum is 134 pages in length and contains a fact statement that is 42 pages in length. For the convenience of the Court and to clarify what are, at times, complex issues, SCO has placed in the argument section of its Opposition Memorandum the relevant facts and has also quoted directly relevant portions of the cited exhibits and declarations. This will provide the Court the necessary factual information in context and alleviate the need to continually reference separate documents to locate material language. Because SCO’s opposition is largely fact based, presenting the opposition in this manner accounts for a significant portion of the argument section. In addition, the last several pages of SCO’s Opposition Memorandum sets forth SCO’s position in support of its Rule 56(f) Motion filed concurrently herewith. SCO respectfully submits that the excess length is necessary to fully address and rebut the issues raised in IBM’s summary judgment motion.

DATED this 30<sup>th</sup> day of November, 2004.



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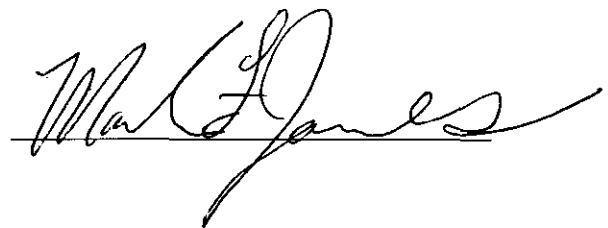
**CERTIFICATE OF SERVICE**

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 by first class mail on the 30<sup>th</sup> day of November, 2004, as follows:

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A handwritten signature in cursive script, appearing to read "Mark G. Jones", written over a horizontal line.