U.S. DISTRICT COURT

7005 APR 28 P 4: 51

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

CENTRAL DIVISION

DEPUTY CLERK

THE SCO GROUP, INC.,

Plaintiff/Counterclaim-Defendant,

ORDER

VS.

INTERNATIONAL BUSINESS MACHINES CORPORATION,

Defendant/Counterclaim-Plaintiff. Case No. 2:03CV294 DAK

This matter is before the court on G2 Computer Intelligence, Inc.'s ("G2's) Motion to Intervene and Motion to Unseal Court's File. CNET Networks, Inc. ("CNET") and Forbes Inc. ("Forbes") have also joined in the motion. A hearing on the motion was held on April 26, 2005. At the hearing, G2, CNET, and Forbes were represented by Andrew H. Stone. International Business Machines Corp. was represented by Amy Sorenson, and The SCO Group was represented by Brent O. Hatch. Before the hearing, the court considered carefully the memoranda and other materials submitted by the parties. Since taking the motions under advisement, the court has further considered the law and facts relating to the motion. Now being fully advised, the court renders the following Order.

The court declines to allow G2, CNET, and/or Forbes to intervene in this case. The court, however, sets forth the following requirements and admonitions to minimize the risk of

overdesignating confidential documents, thereby maximizing the public's accessability to the documents filed in this case:

- (1) Counsel for both IBM and SCO shall review the documents filed thus far in this action to determine whether any such documents may be unsealed. Counsel shall notify the court on or before May 27, 2005 as to which documents the parties agree may be unsealed.
- (2) All future dispositive motions and memoranda that are filed under seal shall be publicly filed with all confidential information redacted. Additionally, all non-confidential supporting exhibits shall be publicly filed;
- (3) After May 27, 2005, the court will award reasonable attorneys' fees to any party that successfully challenges the opposing party's designation of a document as confidential after such document has been filed with the court and after having provided the party seeking confidentiality at least ten days to remove the confidential designation;
- (4) Although the court does not have the resources to monitor whether each sealed document is appropriately sealed, the court hereby notifies the parties that if the court, in its regular consideration of future motions, becomes aware that material documents are improperly filed under seal, the court may issue an order to show cause why a particular document was filed under seal and may impose monetary sanctions for improper sealing of a document.

CONCLUSION

Accordingly, IT IS HEREBY ORDERED that G2, CNET, and Forbes' Motion to

Intervene and Unseal Court's Files is DENIED. The court has set forth several requirements and admonitions to minimize the risk of the parties improperly filing documents under seal.

DATED this 28th day of April, 2005.

BY THE COURT:

DALE A. KIMBAI

United States District Judge

United States District Court for the District of Utah April 29, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:03-cv-00294

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Brent O. Hatch, Esq. HATCH JAMES & DODGE 10 W BROADWAY STE 400 SALT LAKE CITY, UT 84101 EMAIL

Scott E. Gant, Esq. BOIES SCHILLER & FLEXNER (DC) 5301 WISCONSIN AVE NW WASHINGTON, DC 20015

Frederick S. Frei, Esq.
ANDREWS KURTH
1701 PENNSYLVANIA AVE NW STE 300
WASHINGTON, DC 20006

Evan R. Chesler, Esq. CRAVATH SWAINE & MOORE 825 EIGHTH AVE NEW YORK, NY 10019 EMAIL

Mr. Alan L Sullivan, Esq. SNELL & WILMER (UT)
15 W SOUTH TEMPLE STE 1200 GATEWAY TOWER W
SALT LAKE CITY, UT 84101 EMAIL

Todd M. Shaughnessy, Esq. SNELL & WILMER (UT)
15 W SOUTH TEMPLE STE 1200
GATEWAY TOWER W
SALT LAKE CITY, UT 84101
EMAIL

Mark J. Heise, Esq. BOIES SCHILLER & FLEXNER (FL) 100 SE 2ND ST STE 2800 MIAMI, FL 33131 Mr. Kevin P McBride, Esq. 1299 OCEAN AVE STE 900 SANTA MONICA, CA 90401 EMAIL

Robert Silver, Esq. BOIES SCHILLER & FLEXNER (NY) 333 MAIN ST ARMONK, NY 10504

Stuart H. Singer, Esq. BOIES SCHILLER & FLEXNER (FL) 401 E LAS OLAS BLVD STE 1200 FT LAUDERDALE, FL 33301 EMAIL

Mr. David W Scofield, Esq. PETERS SCOFIELD PRICE 340 BROADWAY CENTRE 111 E BROADWAY SALT LAKE CITY, UT 84111 EMAIL

Mr. Michael P O'Brien, Esq.
JONES WALDO HOLBROOK & MCDONOUGH (SLC)
170 S MAIN ST STE 1500
PO BOX 45444
SALT LAKE CITY, UT 84145-0444
EMAIL