

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

FILED  
U.S. DISTRICT COURT  
2005 OCT 11 P 2:55  
DISTRICT OF UTAH  
BY: \_\_\_\_\_  
DEPUTY CLERK

CRAVATH, SWAINE & MOORE LLP  
Evan R. Chesler (admitted pro hac vice)  
David R. Marriott (7572)  
Worldwide Plaza  
825 Eighth Avenue  
New York, New York 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.

**~~PROPOSED~~  
ORDER REGARDING DISMISSAL OF  
COUNTERCLAIMS**

Civil No. 2:03CV0294 DAK

Honorable Dale A. Kimball

Magistrate Judge Brooke C. Wells

Based upon the stipulation of the parties, and good cause appearing therefor,

IT IS HEREBY ORDERED that IBM's Eleventh Counterclaim (Patent Infringement), Twelfth Counterclaim (Patent Infringement), and Thirteenth Counterclaim (Patent Infringement) from IBM's Second Amended Counterclaims Against SCO are hereby dismissed with prejudice and upon the merits, with each party to bear its own costs and attorneys' fees related thereto.

DATED this 10<sup>th</sup> day of October, 2005.

BY THE COURT

  
U.S. District Court Judge  
Dale A. Kimball

APPROVED AS TO FORM AND CONTENT:

HATCH, JAMES & DODGE, P.C.

Brent O. Hatch

Mark F. James

By   
Counsel for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on the 6<sup>th</sup> day of October, 2005, 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

Robert Silver  
Edward Normand  
Sean Eskovitz  
BOIES, SCHILLER & FLEXNER LLP  
333 Main Street  
Armonk, NY 10504

  

---