
IN THE UNITED STATES DISTRICT COURT
CENTRAL DIVISION, DISTRICT OF UTAH

THE SCO GROUP INC. : Case No. 2:03cv00294 DAK
 :
 Plaintiff/Counterclaim :
 Defendant, : ORDER DENYING SCO'S MOTION
 : TO STRIKE
 vs. :
 : JUDGE DALE A. KIMBALL
 INTERNATIONAL BUSINESS MACHINES
 CORP. :
 : MAGISTRATE JUDGE BROOKE C.
 Defendant/Counterclaim : WELLS
 Plaintiff. :

On April 14, 2006, this court heard oral argument on IBM's Motion to Limit SCO's claims. During the hearing SCO also sought leave to file the Declaration of Marc Rochkind. The court granted SCO's motion and out of a sense of fairness permitted IBM's expert, Randall Davis, an opportunity to respond. Now in an apparent attempt to escalate the expert wars, SCO seeks to either strike Mr. Davis' rebuttal declaration, or in the alternative, be afforded an opportunity to respond to Mr. Davis latest declaration.¹

During the hearing on April 14 this court explicitly told counsel for SCO that it was going to allow IBM an opportunity to respond. But, "that's where it's going to be cut off." Counsel

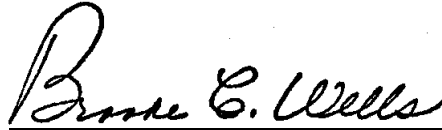
¹ See Motion, docket no. 676.

for SCO represented to the court that he understood the court's ruling but, hoped the court would entertain an opportunity to respond if new issues were raised in the rebuttal declaration. While the court appreciates SCO's concern regarding the alleged inclusion of inappropriate issues into the Davis' declaration, the court is fully capable of parsing out those items that are inappropriately included. Moreover, the court foresees that if it were to grant SCO's motion then doubtless, IBM would need an opportunity to respond followed by SCO requesting another opportunity etc. etc. etc. If the court decides it does need further clarification of the current issues concerning IBM's Motion to Limit SCO's claims it will request such clarification from the parties.

Accordingly, SCO's motion is DENIED.

DATED this 10th day of May, 2006.

BY THE COURT:



BROOKE C. WELLS
United States Magistrate Judge