APPENDIX A

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6/13/2003   IBM serves its First Set of Interrogatories on SCO. These interrogatories seek information about IBM's improper contributions to Linux, but do not request SCO to provide version, file, and line of code, and do not address how to identify improperly disclosed methods and concepts where lines of code were not disclosed.

8/4/2003   SCO serves its initial response to IBM's First Set of Interrogatories.

9/16/2003   IBM serves its Second Set of Interrogatories on SCO. These interrogatories seek information about the material in Linux to which SCO claims rights, and relate to SCO's Linux copyright infringement claims and/or IBM's Tenth Counterclaim. The interrogatories do not request SCO to provide version, file, and line of code, and do not address how to identify improperly disclosed methods and concepts where lines of code were not disclosed.

10/23/2003   SCO serves a supplemental response to IBM's First Set of Interrogatories.

10/23/2003   SCO serves its response to IBM's Second Set of Interrogatories.

12/12/2003   The Magistrate Court directs SCO to answer interrogatories in IBM's First and Second Sets of Interrogatories. The Magistrate Court Order does not mention any requirement that SCO identify misused material by version, file and line of code, much less address how SCO should identify improperly disclosed methods and concepts where lines of code were not disclosed.

1/12/2004   Pursuant to the December 12, 2003 Magistrate Court Order, SCO serves a supplemental response to IBM's First and Second Set of Interrogatories.

1/15/2004   Pursuant to the December 12, 2003 Magistrate Court Order, SCO serves its Revised Supplemental Response to Defendant's First and Second Set of Interrogatories.

3/3/2004   In response to motions to compel from both SCO and IBM, the Magistrate Court orders both parties to respond to pending interrogatories. This Order does not mention any requirement that SCO identify misused material by version, file and line of code, much less address how SCO should identify improperly disclosed methods and concepts where lines of code were not disclosed. In this order, the Magistrate Court recognizes that SCO made "good faith efforts to comply with the Court's prior order . . . ." As to IBM, the Magistrate Court finds that IBM had failed to provide relevant and responsive

discovery to SCO, and orders IBM (at 4-6) to provide the approximately 232 releases of AIX and Dynix; all non-public contributions it had made to Linux; materials and documents generated by, and in possession of employees who have been and that are currently involved in the Linux project; further interrogatory responses; and proper identification of 1000 of the most important prospective trial witnesses.

5/18/2004   IBM files a motion for summary judgment, which was ultimately denied as premature since IBM had not provided essential discovery to SCO.

1/18/2005   In response to two motions to compel brought by SCO, the Magistrate Court agrees with SCO that proper discovery from IBM is essential to the fair adjudication of SCO's claims, and orders IBM to produce additional discovery. The Magistrate Court further recognizes that this will necessitate an adjustment to the pretrial deadlines and trial schedule, which ultimately leads to the July 2005 scheduling order at issue here.

2/9/2005   This Court denies all of IBM's motions for summary judgment, observing (at 11): "[T]he Court agrees with SCO that granting summary judgment would be premature given that SCO – at the time the instant motion was briefed – had not obtained from IBM the AIX and Dynix code that SCO has been requesting." The Court further notes (at 16) that "complete discovery is necessary prior to the just resolution of any claim."

3/25-4/1/2005 Both SCO and IBM submitted briefs in support of their proposed scheduling orders. In its proposed scheduling order, IBM asked the Court to include the requirement, hitherto absent, that "allegedly misused material must be identified by version, file, and line of code."

7/01/2005   This Court issues an Order setting forth new pretrial deadlines and a new trial schedule. The Order required each party "to identify with specificity all allegedly misused materials." This Order does not mention any requirement that SCO identify misused material by version, file and line of code, much less address how SCO should identify improperly disclosed methods and concepts where lines of code were not disclosed. Indeed, the Court rejected language requested by IBM in its proposed scheduling order that would have imposed such a requirement.

10/28/2005   Pursuant to the July 2005 Order, SCO serves its Interim Disclosures.

12/05/2005   IBM informs SCO – for the first time – of its interpretation of SCO's discovery obligations, which goes substantially beyond the plain language of the court orders and interrogatory requests. IBM notifies SCO that unless SCO complies with IBM's interpretation of its obligations, "IBM intends to ask the Court to preclude SCO from

pursuing any claims regarding allegedly misused material not properly disclosed on or before December 22, 2005."

12/22/2005   Pursuant to the July 2005 Scheduling Order, SCO specifically identified over two hundred instances in which IBM had misused proprietary and confidential information from its UNIX-derived operating systems, AIX and Dynix, for the widely publicized purpose of commercially hardening Linux. For each item, SCO identified who at IBM made the improper disclosure, how and when the disclosure was made, and what proprietary and confidential information was disclosed. About a third of IBM's improper disclosures are of lines of source code, and about two-thirds are disclosures of methods and concepts without lines of source code. Where IBM's wrongful disclosure to Linux included lines of source code, SCO identified those lines of source code disclosed by IBM. Where IBM's wrongful contribution to Linux contained methods and concepts without lines of source code, SCO identified the method or concept that was disclosed by IBM. This specificity complied with the July 2005 Order, with the Magistrate Court orders, and with IBM's interrogatories.

2/15/2006   IBM serves on SCO Interrogatory 23, which seeking anew some of the same information that it contends it had already requested in earlier interrogatories – suggesting that, before filing its Motion to Limit, IBM also did not believe SCO had been previously required to produce that information.

3/16/2006   IBM withdrew Interrogatory 23, noting that it is "is confusing in any case." (James Exh. 6) This concession illustrates that this area of discovery requests and orders has never been so clearly set forth as to meet the legal standard for a severe sanction.