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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 GRANTING IBM'S EX PARTE MOTION FOR LEAVE TO FILE **OVERLENGTH MEMORANDUM IN** SUPPORT OF ITS MOTION FOR SUMMARY JUDGMENT ON ITS CLAIM FOR DECLARATORY JUDGMENT OF **NON-INFRINGEMENT (IBM'S TENTH COUNTERCLAIM**)

Civil No. 2:03CV-0294 DAK

Honorable Dale A. Kimball

Magistrate Judge Brooke C. Wells

Based upon Defendant/Counterclaim-Plaintiff International Business Machines Corporation's ("IBM") Ex Parte Motion for Leave to File Overlength Memorandum in Support of its Motion for Summary Judgment on its Claim for Declaratory Judgment of Non-Infringement (IBM's Tenth Counterclaim), and for good cause appearing thereon,

IT IS HEREBY ORDERED that IBM may file its overlength Memorandum in Support of its Claim for Declaratory Judgment of Non-Infringement (IBM's Tenth Counterclaim), not to exceed twenty-six pages of argument.

DATED this ____ day of September, 2006.

BY THE COURT

Dale A. Kimball **United States District Court Judge**

CERTIFICATE OF SERVICE

I hereby certify that on the 25th day of September, 2006, a true and correct copy of the foregoing was electronically filed with the Clerk of the Court and delivered by CM/ECF system to the following:

> Brent O. Hatch Mark F. James HATCH, JAMES & DODGE, P.C. 10 West Broadway, Suite 400 Salt Lake City, Utah 84101

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/s/ Amy F. Sorenson