IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF UTAH

CENTRAL DIVISION

THE SCO GROUP, INC., a Delaware corporation, Plaintiff, vs. INTERNATIONAL BUSINESS MACHINES CORPORATION, a New York corporation, Defendant.	)	Civil No. 2:03-CV-294DAK

Status Conference

BEFORE THE HONORABLE BROOKE C. WELLS

November 21, 2003

Transcript of Magnetically Recorded Hearing

Geri Jardine
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Also Present:

Mr. McBride

Salt Lake City, Utah, November 21, 2003

P R O C E E D I N G S

THE COURT: Calling the SCO Group Inc., plaintiff, versus International Business Machines Corporation, defendant. The record should indicate that in this matter, the plaintiffs are represented by Mr. Todd Shaughnessy and Mr. David Marriott. Is that correct, sir?

MR. SHAUGHNESSY: We represent IBM.

THE COURT: I'm sorry. I screwed that up, didn't I?

MR. SHAUGHNESSY: No -- well, they grabbed the wrong seat.

THE COURT: Well, that may be. I'm easily confused. Mr. McBride, welcome --

MR. MCBRIDE: Good morning, Your Honor.

THE COURT: -- and Mr. Hatch.

MR. HATCH: Yes.

THE COURT: Counsel, the purpose for this hearing, as I understood it, and for which I reviewed the docket entry which then indicated that this was merely a status hearing to determine whether or not we were going to need to hold a more extensive hearing as to the discovery issues that appear to remain. Is that your understanding as well?

MR. HATCH: That's correct, Your Honor. To bring you up to date on what's happened since our last hearing, as well -- as far as filings.

THE COURT: I have received some of them, as well as a filing yesterday. I haven't had an opportunity to review those in depth. If you want to briefly tell me, I would be happy to do that.

MR. HATCH: I think the only thing that is probably relevant, since this is just a status conference, is that -- since we met last -- of course we filed a -- they filed a response to what -- we filed a motion to compel, which we told the Court we would do. They have just received it yesterday (inaudible).

IBM has also filed a second motion to compel, and based on what I see -- and I don't know if I did the dates wrong -- right or wrong, but I'm sure Mr. Shaughnessy will correct me -- is I believe our opposition to that is due I think the 25th, sometime next week, and I tried to calculate the dates based on that, and it seems like their reply would be due December 9th. And so when we had our last hearing before Your Honor, I was hoping that we were going to -- in my opinion -- to try to do all the motions to compel in one hearing. So this other motion to compel was not anticipated, at least not talked about at the

last hearing.

THE COURT: Although I have no reason to believe we couldn't just incorporate it.

MR. HATCH: I agree. I guess what I -- since they're -- I don't know if they intend to (inaudible) coordinate after the hearing date, and then I also wanted to raise with Your Honor as well, based on the pleadings that have happened since the last hearing, it probably would be important, although not -- we can do without it, but we prefer to have one of the counsel from the (inaudible) firm who has been most (inaudible) involved with the discovery to be in attendance. I think I told you at the last hearing that it did not look like he could on the dates we picked.

THE COURT: And my recollection is that that date was set primarily as the soonest date because of counsel's request for an expedited hearing. Is that right --

UNIDENTIFIED SPEAKER: That's correct.

THE COURT: -- initially, and so, you know, I suppose the question then is posed to you about whether or not -- because you haven't had time to respond to this latest filing, whether you want to attempt to respond so that we could continue to keep the December 5th hearing date or whether we want to move it.

MR. SHAUGHNESSY: Thank you, Your Honor.

MR. HATCH: Well, I think that I'm only talking about really a matter of weeks, and so I don't think that that's going to (inaudible).

MR. SHAUGHNESSY: As I understand it, Your Honor, the plaintiff's response to IBM's second motion to compel, which I believe was raised as a possibility at the last hearing, is actually due today. It is not due in a week. And we served that document by hand on Mr. Hatch on the 6th day of November. I believe that amounts to today as the date that (inaudible).

If we could respond, Your Honor. I have seen the paper, obviously, Your Honor. But we could respond to that as promptly as possible. (Inaudible.)

December 5th (inaudible). As you know, we are interested in having a hearing date (inaudible) are of great importance and would not wish to see (inaudible).

THE COURT: Mr. Hatch, based upon counsel's representations that they either have sufficiently replied or responded or can't within the appropriate time, I don't know -- I don't see any compelling reason to continue the December 5th hearing date.

MR. HATCH: Ye Um, I can quibble with the service of last May, but I don't think that's a

relevant issue. The only reason I'm asking for that extra week is based on the filings that have happen Ome since the last hearing. It would be very useful for us to be able to have the representative from (inaudible), because most of discovery has gone directly to (inaudible) because there are volumes of it. If we have to, we will do without him, we will do whatever Your Honor wants. I prefer if he can be here -- and so I'm not asking for some -- you know, I'm not for months and months delay. I'm only asking for a week.

THE COURT: Mr. Hatch, I think that under these particular circumstances where this issue was raised before, that we'll maintain the December 5th hearing date, all right?

MR. HATCH: That will be fine, Your Honor.

THE COURT: I did receive a copy, just for information's sake, of an order gr hAmi ng pro hac vice status on behalf of a Mr. Mark James in this matter.

MR. HATCH: Actually, I think Mark James is the one who filed. He's a member of the firm.

THE COURT: He filed it? All right. Oh, then -- he is associate local counsel. I'm still learning, counsel. And I realize what my confusion may be, Mr. atch. It seems like earlier this week you were on that side for -- as defense, and so forgive my memory

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loss.

Is there anything else that we need to address this morning?

MR. HATCH: I think that was the issue, Your Honor.

THE COURT: All right. Thank you for accommodating the change in schedule this morning. We found it necessary to double schedule this morning and I thought it would be easier to move this matter.

MR. HATCH: It just gave us one less hour to agonize over the hearing.

THE COURT: That's right, one less hour to ago in DDF, and I'm sure that this constituted agony for both sides.

MR. HATCH: Thank you, Your Honor.

THE COURT: Anyway, we'll be in recess. Thank you.

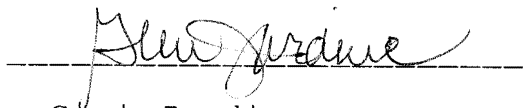
(Whereupon, this matter was concluded.)

C E R T I F I C A T E

STATE OF UTAH)
) ss.
COUNTY OF UTAH)

I, Geri Jardine, do hereby certify that the foregoing transcript was taken down by me stenographically from electronically recorded tapes and thereafter transcribed under my direction.

That the foregoing pages contain a true and accurate transcript of the electronically recorded proceedings and was transcribed by me to the best of my ability from the tapes furnished to me.



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