

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

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*

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH**

THE SCO GROUP, INC.

Plaintiff/Counterclaim-
Defendant,

v.

INTERNATIONAL BUSINESS
MACHINES CORPORATION,

Defendant/Counterclaim-
Plaintiff.

**IBM'S OPPOSITION TO SCO'S MOTION
FOR AN EXTENSION OF TIME AND
CROSS-MOTION FOR EXTENSION OF TIME**

Civil No. 2:03CV0294 DAK

Honorable Dale A. Kimball

Magistrate Judge Brooke Wells

1. On October 18, 2006, the parties agreed to extend the schedule for briefing summary judgment and other motions on the condition that neither party would seek “any further extensions of the deadlines for memoranda in opposition to the pending summary judgment motions.” (Doc. # 839.)

2. The following day, on October 19, 2006, the Court approved the parties’ stipulated extension subject to the agreement that neither party would seek further extensions of the deadline for memoranda in opposition to the summary judgment motions. (Doc. # 840.) By agreement and Court order, the parties’ summary judgment opposition papers are due today.

3. At the October 25, 2006 hearing, SCO asked the Court to extend the schedule by an additional week. Based on the understanding that no further extensions would be sought, IBM agreed to that extension.

4. The parties subsequently agreed to a stipulation and proposed order (attached as Exhibit A) extending the deadline by one week. But late this afternoon, SCO reversed course and advised IBM that it intended to seek yet another week extension to submit its opposition papers -- for a total of two additional weeks.

5. While IBM consents to, and respectfully requests, a one-week extension of the parties’ briefing schedule, per the parties’ agreement and the discussion at the October 25 hearing, we oppose SCO’s request for yet another extension and respectfully request that no further extension be allowed.

6. Putting aside the fact that SCO twice agreed not to seek any further extensions of time, and the Court entered at least one order based on that understanding, a further extension would, if applied evenhandedly (two weeks per side), make IBM’s reply papers due on December 29, during the middle of the holidays. Moreover, an additional extension would

interfere with plans made by IBM's counsel in connection with other matters, including during the week of December 18, which matters were scheduled based on SCO's agreement to seek no further extensions of time.

7. Despite the fact that IBM made perfectly clear to SCO that it opposed SCO's request for an additional extension, SCO filed tonight a "stipulation and joint motion," with the conformed signature of undersigned counsel. SCO did so without IBM's consent, and that "stipulation" does not reflect IBM's position. That motion should be denied.

8. For the foregoing reasons, IBM respectfully requests that the Court enforce the parties' agreement and extend the schedule, by one week as set out in the attached proposed order.

DATED this 1st day of November, 2006.

SNELL & WILMER L.L.P.

/s/ Todd M. Shaughnessy
Alan L. Sullivan
Todd M. Shaughnessy
Amy F. Sorenson

CRAVATH, SWAINE & MOORE LLP
Evan R. Chesler
David R. Marriott

*Attorneys for Defendant/Counterclaim-Plaintiff
International Business Machines Corporation*

Of Counsel:

INTERNATIONAL BUSINESS MACHINES CORPORATION
Alec S. Berman
1133 Westchester Avenue
White Plains, New York 10604
(914) 642-3000

*Attorneys for Defendant/Counterclaim-Plaintiff International
Business Machines Corporation*

CERTIFICATE OF SERVICE

I hereby certify that on the 1st day of November, 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

Stephen N. Zack
Mark J. Heise
BOIES, SCHILLER & FLEXNER LLP
100 Southeast Second Street, Suite 2800
Miami, Florida 33131

/s/ Todd M. Shaughnessy