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July 30, 2004

Hon. Robert C. Jones
United States District Court
333 S. Las Vegas Blvd.
Las Vegas, NV 89101

**Re: The SCO Group, Inc.
v. AutoZone, Inc.
Civil Action No. CV-S-04-0237-RCJ-LRL**

BY: _____ DEPUTY

CLERK US DISTRICT COURT
DISTRICT OF NEVADA

2004 AUG -3 P 2:58

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Dear Judge Jones:

On July 12, 2004, we appeared before Your Honor with respect to the defendant's motions (1) for a stay or alternatively for a more definite statement; and (2) for transfer of venue pursuant to Section 1404(b). Your Honor granted the stay with the exception of ordering that SCO could take discovery in order to determine whether or not to file for a preliminary injunction in the case. A copy of the official transcript of Your Honor's ruling is submitted herewith for the Court's convenience.

Your Honor directed that the parties attempt to agree upon a form of Order which would be presented to the Court. The parties have conferred at length and have agreed on many aspects of an Order but remain in disagreement on certain significant points. Those points are explained below.

1. Statement of Basis For Preliminary Injunction

Although Your Honor made no mention anywhere in the transcript of a requirement that SCO provide a statement before discovery of the basis on which it believes it could obtain preliminary relief if it, in fact, elects to file for preliminary relief, AutoZone is demanding that a provision to this effect be included in the Order. SCO objects to this provision because Your Honor did not order it and the Order is supposed to reflect Your Honor's ruling; but equally importantly because we believe the clear intent of Your Honor's ruling was to permit us to conduct discovery in order to determine what the basis for a preliminary injunction would ultimately be. Indeed, AutoZone's counsel specifically attempted to persuade the Court to limit the scope of discovery to certain issues and the Court expressly declined to do so, noting that the brief time for discovery itself will limit discovery. (Tr. at 24, "I am not going to limit scope other than to say that it is limited to any factual predicates or to obtain factual predicates to a request for preliminary injunction.") Accordingly, AutoZone will know at the appropriate time if and when SCO decides to move for preliminary injunction, on what basis and on what facts SCO relies.

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2. Discovery by AutoZone.

AutoZone is demanding that the Order include a provision that it be permitted concurrent discovery at the same time as SCO is conducting the limited discovery ordered by the Court. Again, the transcript of Your Honor's ruling nowhere states that AutoZone will be permitted such discovery and, therefore, such a provision does not belong in the Order on that ground alone. (See, e.g., Tr. at 22, Ln 12-19.) Furthermore, given the limited time for discovery that the Court has permitted to require SCO to be responding to discovery from AutoZone would needlessly complicate and burden the parties and interfere with the procedure that we believe the Court intended. This is particularly so where the Court clearly intended SCO to decide whether or not to move for a preliminary injunction after discovery was concluded. In the event SCO were to elect not to move for a preliminary injunction, the discovery by AutoZone would be superfluous. Equally important, AutoZone moved for a stay on the basis that it does not want to spend needless resources litigating claims that may not need to be litigated. It is totally inconsistent with that position for AutoZone to now wish to conduct discovery with respect to a preliminary injunction that may never be filed. Although the Court did not order that AutoZone should have discovery, SCO has offered to agree that AutoZone may have discovery (if the Court believes this is appropriate) if and when SCO elects to file a preliminary injunction. At that point, AutoZone will know precisely what the basis is for seeking the preliminary injunction and can target its discovery to those issues which are actually before the court. SCO has agreed that it would not seek a decision on its preliminary injunction motion if it files one until AutoZone has had a reciprocal opportunity to conduct discovery into these issues. While the Court did not order this, we have included this in the proposed Order submitted in the event the Court determines that such discovery would be appropriate for the reasons discussed.

3. Motion To Transfer

At the argument, the Court on several occasions stated its reluctance to transfer this matter to the Western District of Tennessee. In particular, specifically the Court stated in Tr. at 13 Ln. 5-6; Tr. at 14, Ln. 1-6 ("but I'm not too enamored with the idea of sending it to Tennessee"). The Court further stated that the Court was in an excellent position to capably manage and try this action. (Tr. at p. 8 Ln. 16-23.) The Court also indicated some possibility that it might consider transferring the action to Utah. (Tr. at 14, Ln. 1-2.) Based on these statements, SCO believes that the appropriate provision in an Order should include a statement that AutoZone's motion to transfer the matter to the Western District of Tennessee was denied and that we should provide the Court with a choice as to whether such denial was with or without prejudice. The parties were not completely clear on the Court's position in this regard. AutoZone took the position the

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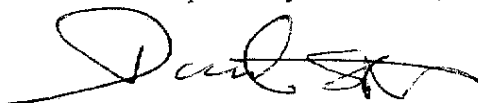
decision was clearly without prejudice and wished the Order to so read. Our proposed Order gives the Court the choice to deal with this motion in the appropriate manner. However, we would respectfully submit that given the fact that the issue has been fully argued and the Court has elected not to transfer the matter to Tennessee and has, instead, directed that SCO may conduct discovery and both parties were ordered to submit status letters to the Court, that it is the Court's intention not to transfer this matter to Tennessee. Our proposed Order leaves open the possibility that the Court may at some later date transfer the matter to Utah.

4. Motion For More Definite Statement

AutoZone's motion for more definite statement was clearly made as an alternative to its motion for a stay. AutoZone clearly stated in the papers that were submitted to the Court that, if a stay was granted, it would not seek a more definite statement. Accordingly, it is SCO's position that, in light of the Court's grant of AutoZone's motion for a stay, its motion for a more definite statement has been denied. AutoZone disagrees with this position.

Other than the items set forth above, the parties are essentially in agreement as to all other aspects of the Order, including timeframes for SCO's discovery for the filing of SCO's motion if it elects to do so and to the number of depositions. We respectfully request that the Court determine which Order more clearly reflects its ruling as expressed in the enclosed transcript and advise the parties as to how it wishes them to proceed.

Respectfully submitted,



David S. Stone

DSS/r
Enclosure
cc: Michael Kenny, Esq.

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July 30, 2004

Via Facsimile and Overnight UPS

The Honorable Robert C. Jones
United States District Judge
United States District Court
333 S. Las Vegas Blvd.
Las Vegas, NV 89101

Re: The SCO Group, Inc. v. AutoZone, Inc., Civil Action No. CV-S-04-0237-RCJ-LRL

Dear Judge Jones:

At the conclusion of the July 12 hearing in the above-referenced action, the Court instructed counsel for AutoZone, Inc. ("AutoZone") to prepare an order reflecting the Court's stay of the case with the one-time exception for a motion for preliminary injunction. The Court further instructed AutoZone to pass the order by counsel for The SCO Group, Inc. ("SCO") before submitting the order to the Court.

Counsel for the parties have conferred in good faith regarding the provisions of a proposed order; however, the parties have been unable to reach agreement regarding several important issues. The parties have therefore agreed to submit separate orders to the Court for its consideration together with a brief cover letter identifying the key areas that require resolution by the Court. An Order in the form AutoZone recommends is enclosed.

Key issues that AutoZone requests the Court address in the order it issues include the following:

1. Identification by SCO of the Basis of Its Anticipated Motion.

The Court stated at the July 12 hearing that discovery is to be limited at this time "to facts predicate to a motion for preliminary injunction" and that SCO should not pursue discovery if it does not "have the right to [a] preliminary injunction." (July 12

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Hearing, 24:22-23, 25:8-12.) At this time, AutoZone does not know the grounds on which SCO intends to (or could) move for a preliminary injunction. SCO stated at the July 12 hearing that AutoZone has infringed UNIX static shared libraries in converting from UNIX to Linux. However, SCO also stated that such shared libraries are only one example of alleged infringements by AutoZone. (July 12 Hearing, 17:19-24.) SCO did not identify any other areas of alleged infringement.

AutoZone requests that the Court order SCO to identify the factual basis for its anticipated motion and the relief it will seek on the motion before discovery begins. Unless the preliminary injunction issues are framed in this manner at the outset, there will be no meaningful way to conduct limited discovery or to prevent discovery from straying into a fishing expedition. Paragraph 2 of AutoZone's proposed Order provides a mechanism for SCO to provide AutoZone with such a statement in advance of discovery, without imposing on SCO the burden of filing a full-blown motion and supporting brief at this time.

2. Discovery by AutoZone

The Court did not address at the July 12 hearing whether AutoZone would be entitled to take expedited discovery. However, to defend its interests appropriately against the extraordinary relief SCO seeks, AutoZone submits that it must be afforded an equal opportunity to take relevant discovery before SCO's motion is considered. Relevant discovery will include, among other areas, what code SCO claims to have been infringed, whether SCO owns the copyright in the code it identifies, how AutoZone has allegedly infringed that code, and what – if any – harm SCO is suffering from the alleged infringement. Paragraph 3 of AutoZone's proposed Order provides a mechanism for both parties to take limited expedited discovery so that both parties may be adequately prepared to address SCO's claims for relief within the 60 day time period envisioned by the Court at the July 12 hearing.

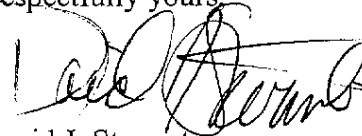
3. AutoZone's Other Pending Motions

Based on discussions and exchanged drafts of proposed orders, it appears that the parties may have different understandings regarding the Court's rulings related to AutoZone's Motion to Transfer and/or its Motion for a More Definite Statement. AutoZone understood that the Court had stayed both motions. (See July 12 Hearing at 14:4-6, 21:15-24.) The Minutes of Court filed on July 14 appear to support this understanding. Nevertheless, so that there is no ambiguity regarding the Court's ruling, AutoZone requests that the Court address its rulings on these motions in the order that it enters. Paragraph 3(f) of the enclosed Order presents AutoZone's understanding of the Court's ruling on the motions.

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In the event the Court wishes to discuss any of the issues addressed in either of the parties' proposed Orders, counsel for AutoZone are available in person or by telephone at the Court's convenience.

Respectfully yours,

A handwritten signature in black ink, appearing to read "David J. Stewart", written over a horizontal line.

David J. Stewart

DJS:jl

Enclosure

ATL01/11703554v1

cc: David S. Stone, Esq. (via facsimile/overnight UPS)
James Pisanelli, Esq.
Michael P. Kenny, Esq.