

Plaintiff, Caldera Systems, Inc., d/b/a The SCO Group ("SCO") submits the following Memorandum in Support of its Motion for Leave to File Complaint.


Federal Rule of Civil Procedure 15(a) provides that leave to amend "shall be freely given when justice so requires." This basic principle has been reinforced by numerous judicial pronouncements and courts generally look favorably on requests to amend. See 6 C. Wright & A. Miller, Federal Practice & Procedure § 1484 (1971).

The purpose underlying Rule 15(a) is to provide maximum opportunity for each claim to be decided on its merits rather than on procedural technicalities. See C. Wright & A. Miller, supra, at § 1471. Thus, courts have construed the rule liberally so as to further the interests of justice. Girard v. Appleby, 660 P.2d 245 (Utah 1983).

Consideration of these factors in the case at bar weighs in favor of the Court granting Plaintiff's Motion for Leave to File Amended Complaint. Plaintiff seeks to amend its Complaint to add claims against IBM for wrongful acts related to the underlying claims that occurred after the initial Complaint in this matter was filed. Plaintiff also seeks to simplify its pleading and to change the name of Plaintiff to reflect Plaintiff's recent legal change of name.

This case is in its nascent stages, and discovery has barely begun. Allowing Plaintiff to amend its Complaint to add new claims will not delay resolution of this case, require additional time for discovery, or prejudice Defendant in any way.

DATED this 16th day of June, 2003.

By: 
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 16 day of June, 2003, a true and correct copy of the foregoing MEMORANDUM IN SUPPORT OF MOTION FOR LEAVE TO FILE AMENDED COMPLAINT was served was served on the following counsel of record as indicated below:

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