

FILED IN UNITED STATES DISTRICT COURT, DISTRICT OF UTAH

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Brent O. Hatch (5715)  
HATCH, JAMES & DODGE, PC  
10 West Broadway, Suite 400  
Salt Lake City, Utah 84101  
Telephone: (801) 363-6363  
Facsimile: (801) 363-6666

Stephen N. Zack (admitted pro hac vice)  
Mark J. Heise (admitted pro hac vice)  
BOIES, SCHILLER & FLEXNER LLP  
Bank of America Tower – Suite 2800  
100 Southeast Second Street  
Miami, Florida 33131  
Telephone: (305) 539-8400  
Facsimile: (305) 539-1307

Robert Silver, Esq. (admitted pro hac vice)  
BOIES, SCHILLER & FLEXNER LLP  
333 Main Street  
Armonk, New York 10504  
Telephone: (914) 749-8200  
Facsimile: (914) 749-8300

*Attorneys for Plaintiff The SCO Group, Inc.*

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF UTAH

THE SCO GROUP, INC.

Plaintiff/Counterclaim-  
Defendant,

vs.

INTERNATIONAL BUSINESS  
MACHINES CORPORATION,

Defendant/Counterclaim-  
Plaintiff.

**THE SCO GROUP'S RULE 56(f)  
MOTION IN FURTHER  
OPPOSITION TO IBM'S MOTION  
FOR PARTIAL SUMMARY  
JUDGMENT**

**Civil No. 2:03CV0294 DAK**

**Honorable Dale A. Kimball**

**Magistrate Judge Brooke Wells**

Plaintiff/Counterclaim-Defendant The SCO Group, Inc. ("SCO") hereby moves the Court for an Order denying Defendant/Counterclaim-Plaintiff International Business Machines Corporation's ("IBM") Motion for Partial Summary Judgment or, alternatively, for an Order continuing consideration of IBM's Motion until sufficient discovery has been conducted. SCO's Rule 56(f) Motion is based on the following grounds:

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As set forth in SCO Memorandum and accompanying declarations, SCO has not had sufficient time since IBM filed its counterclaim to analyze the millions of lines of Linux source code, to compare it to UNIX source code, and to trace the genealogy, ownership, registration and licensing of that code. SCO has also not received discovery essential to oppose IBM's motion, nor even basic discovery that would permit SCO simply to efficiently identify targets for future, focused discovery and efficient investigation of facts to oppose IBM's motion. Without such basic discovery, SCO's investigation for non-literal copying would be made much slower and more inefficient than would otherwise be necessary. SCO has not even been given the basic, Court-ordered discovery on which SCO has now been required to renew a motion to compel necessary to permit SCO to build and prioritize its investigation of non-literal copying into Linux.

This Motion is supported by the Rule 56(f) Declaration of John K. Harrop, the declarations of Christopher Sontag and Sandeep Gumptra and SCO's Memorandum in Opposition to IBM's Motion for Partial Summary Judgment and in Support of SCO's Rule 56(f) Motion.

DATED this 8<sup>th</sup> day of July, 2004.



HATCH, JAMES & DODGE, P.C.

Brent O. Hatch (5715)

Mark F. James

10 West Broadway, Suite 400

Salt Lake City, Utah 84101

Telephone: (801) 363-6363

Facsimile: (801) 363-6666

Robert Silver, Esq. (admitted pro hac vice)

BOIES, SCHILLER & FLEXNER LLP

333 Main Street

Armonk, New York 10504

Telephone: (914) 749-8200

Facsimile: (914) 749-8300

Stephen N. Zack (admitted pro hac vice)

Mark J. Heise (admitted pro hac vice)

BOIES, SCHILLER & FLEXNER LLP

Bank of America Tower – Suite 2800

100 Southeast Second Street

Miami, Florida 33131

Telephone: (305) 539-8400

Facsimile: (305) 539-1307

Counsel for Plaintiff/Counterclaim-Defendant

Frederick S. Frei (admitted pro hac vice)

Aldo Noto (admitted pro hac vice)

John K. Harrop (admitted pro hac vice)

ANDREWS KURTH LLP

1701 Pennsylvania Avenue, Ste. 300

Washington, DC 20006

Telephone: (202) 662-2700

Facsimile: (202) 662-2739

Of Counsel

**CERTIFICATE OF SERVICE**

Plaintiff, The SCO Group, hereby certifies that a true and correct copy of **THE SCO GROUP'S RULE 56(f) MOTION IN FURTHER OPPOSITION TO IBM'S MOTION FOR PARTIAL SUMMARY JUDGMENT** served on Defendant International Business Machines Corporation on the 9th day of July, 2004, as follows:

BY HAND DELIVERY:

Alan L. Sullivan, Esq.  
Todd M. Shaughnessy, Esq.  
Snell & Wilmer L.L.P.  
15 West South Temple, Ste. 1200  
Salt Lake City, Utah 84101-1004

Evan R. Chesler, Esq.  
Cravath, Swaine & Moore LLP  
825 Eighth Avenue  
New York, NY 10019

Donald J. Rosenberg, Esq.  
1133 Westchester Avenue  
White Plains, New York 10604

  
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