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U.S. DISTRICT COURT  
DISTRICT OF UTAH

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

THE SCO GROUP, INC.

Plaintiff/Counterclaim-Defendant,

v.

INTERNATIONAL BUSINESS MACHINES  
CORPORATION,

Defendant/Counterclaim-Plaintiff.

**[PROPOSED]  
ORDER LIMITING SCOPE OF IBM'S  
NINTH COUNTERCLAIM**

Civil No. 2:03CV0294 DAK

Honorable Dale A. Kimball

Magistrate Judge Brooke C. Wells

Based upon Defendant/Counterclaim-Plaintiff International Business Machines Corporation's ("IBM's") Motion for Entry of Order Limiting Scope of IBM's Ninth Counterclaim, and for good cause appearing,

IT IS HEREBY Ordered that IBM's Ninth Counterclaim is limited to seeking a declaration that the conduct challenged by SCO's Fifth Cause of Action (Copyright Infringement) in SCO's Second Amended Complaint relating to IBM's UNIX activities does not infringe SCO's alleged copyrights, and that IBM's Ninth Counterclaim does not seek a declaration relating to the conduct challenged by SCO's proposed Tenth Cause of Action (Copyright Infringement) in its proposed Third Amended Complaint.

DATED this \_\_\_ day of February, 2005.

**BY THE COURT**

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 18<sup>th</sup> day of February, 2005 a true and correct copy of the

foregoing was sent by U.S. Mail, postage prepaid, to the following:

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