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Brent O. Hatch (5715)
Mark F. James (5295)
HATCH, JAMES & DODGE
10 West Broadway, Suite 400
Salt Lake City, Utah 84101
Telephone: (801) 363-6363
Facsimile: (801) 363-6666

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

Stuart H. Singer (admitted pro hac vice)
BOIES, SCHILLER & FLEXNER LLP
401 East Las Olas Boulevard – Suite 1200
Ft. Lauderdale, Florida 33301
Telephone: (954) 356-0011
Facsimile: (954) 356-0022

Stephen N. Zack (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

Attorneys for The SCO Group, Inc.

**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.

**SCO'S INTERIM DISCLOSURE OF
MATERIAL MISUSED BY IBM**


Case No. 2:03CV0294DAK
Honorable Dale A. Kimball
Magistrate Judge Brooke C. Wells

The SCO Group, Inc. ("SCO") respectfully submits the following Interim Disclosure of Material Misused by IBM in accordance with the Court's Pre-Trial Management order of July 1, 2005.

The Court's Order called for the Parties to identify misused technology with specificity, in an initial report to be filed by October 28, 2005, and a final report due on December 22, 2005. This report indicates the technology that IBM has misused that has been identified to date. The matrix, filed separately under seal as "EXHIBIT 1 TO SCO'S INTERIM DISCLOSURE OF MATERIAL MISUSED BY IBM", which is in the form of a spreadsheet, and the supporting appendices, identify the technology that has been improperly disclosed, where possible who made the disclosure and the manner in which the disclosure was made, the location of the technology in a UNIX derivative or modified product as to which SCO claims proprietary rights, and the manner in which the disclosure has been contributed to Linux. The technology matrix identifies 217 separate technology disclosures which SCO contends are improper, that is, they violate one or more of the contractual prohibitions IBM agreed to with respect to licenses and other agreements governing source code IBM (and Sequent) obtained from SCO's predecessors-in-interest and/or violate SCO's copyrights. Some of these wrongful disclosures include areas such as an entire file management system; others are communications by IBM personnel working on Linux that resulted in enhancing Linux functionality by disclosing a method or concept from UNIX technology, such as Dynix, subject to the restrictions on disclosure in agreements binding upon IBM due to its acquisition of Sequent.

SCO's work on identification and refinement of technology issues in dispute is ongoing, as review of documents and deposition of programmers and other witnesses proceeds, together with the work of consultants with technological expertise in UNIX-based operating systems. The present submission, which embraces several thousand pages of material, is substantial, but distilled from an even larger universe of code and related materials. The numerosity and substantiality of the disclosures reflects the pervasive extent and sustained degree as to which IBM disclosed methods, concepts, and in many places, literal code, from UNIX-derived technologies in order to enhance the ability of Linux to be used as a scalable and reliable operating system for businesses and as an alternative to proprietary UNIX systems such as those licensed by SCO and others. IBM has acknowledged – both internally and externally (*e.g.*, 2nd Am. Compl. ¶¶ 90-96) that it has sought in this way to infuse Linux with the robustness of AIX and Dynix/ptx, both of which are derivatives or modifications of UNIX System V, and subject to SCO's contractual rights.

SCO is contemporaneously supplementing its prior responses to IBM interrogatories regarding these technological disclosures.

DATED this  day of October, 2005.

Respectfully submitted,

HATCH, JAMES & DODGE, P.C.

Brent O. Hatch

Mark F. James

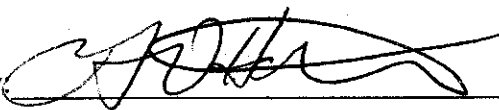
BOIES, SCHILLER & FLEXNER LLP

Robert Silver

Stuart H. Singer

Stephen N. Zack

Edward Normand

By: 

Counsel for The SCO Group, Inc.

CERTIFICATE OF SERVICE

Plaintiff, The SCO Group, Inc., hereby certifies that a true and correct copy of the foregoing Interim Disclosure of Material Misused by IBM was served on Defendant International Business Machines Corporation on the 28th day of October, 2005:

By U.S. Mail:

David Marriott, Esq.
Cravath, Swaine & Moore LLP
Worldwide Plaza
825 Eighth Avenue
New York, New York 10019

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

Todd Shaughnessy, Esq.
Snell & Wilmer LLP
1200 Gateway Tower West
15 West South Temple
Salt Lake City, Utah 84101-1004

