

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

----- X
RED HAT, INC., :
 :
 Plaintiff, : Civil Action No.: 03-772-SLR
 :
 vs. :
 :
 THE SCO GROUP, INC. (formerly Caldera :
 International, Inc.) :
 Defendant. :
----- X

MOTION FOR RECONSIDERATION


Red Hat, Inc. respectfully moves pursuant to Local Rule 7.1.5 for reconsideration the Court's Order dated April 6, 2004 staying this case.

In summary form, the grounds for this motion are as follows:

- 1) The Court did not have the benefit of briefing on the issue of a stay before it when the Court stayed this case *sua sponte*, and in fact a stay based on the prior pending Utah action would be inappropriate under the facts and caselaw for many reasons; and
- 2) Red Hat will suffer manifest injustice from a stay, since SCO apparently intends to continue to harass and threaten suit against Red Hat's customers in other jurisdictions, while Red Hat's declaratory judgment suit here, which was intended to prevent this precise harm to it and to its customers, is forced to languish.

The above grounds are fully set forth in Red Hat's Memorandum, filed herewith.

WHEREFORE, Red Hat respectfully requests the Court to grant the within Motion. A form of Order is attached hereto.



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Dated: April 20, 2004

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FOR THE DISTRICT OF DELAWARE**

RED HAT, INC.,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No.: 03-772 (SLR)
)	
THE SCO GROUP, INC. (formerly Caldera International, Inc.),)	
)	
Defendant.)	
)	

ORDER

The Court having considered the motion of Red Hat for Reconsideration of the Court's Order dated April 6, 2004 (the "Motion"), and having considered the parties' arguments thereon, it IS HEREBY ORDERED this ____ day of _____, 2004 that:

The Motion is granted and:

A. The Order of the Court dated April 6, 2004 is hereby vacated, the stay is lifted and the parties are directed to confer and to submit to the Court a proposed Scheduling Order by _____ 2004.

Alternatively,

B. The Court's April 6, 2004 Order is hereby modified, as follows: SCO is enjoined from threatening to initiate suit or initiating any lawsuit against Red Hat or any of Red

Hat's customers based on alleged infringement of SCO's copyrights through the use of LINUX,
for the period during which this case is stayed.

U.S.D.J.

CERTIFICATE OF SERVICE

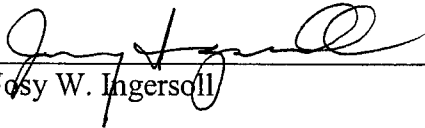
I, Josy W. Ingersoll, Esquire, hereby certify that copies of the foregoing document were caused to be served on April 20, 2004 upon the following counsel of record:

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