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BY ELECTRONIC FILING

The Honorable Sue L. Robinson, Chief Judge
United States District Court
844 North King Street
Wilmington, Delaware 19801

Re: *Red Hat, Inc. v. The SCO Group, Inc.*, C.A. No. 03-772-SLR

Dear Chief Judge Robinson:

Pursuant to this Court's April 6, 2004 Order, SCO respectfully submits this 90-day status report to apprise the Court of events that transpired since our last update (on July 6, 2005) in *SCO v. IBM*, Case No. 03-294 (DAK), and *SCO v. Novell*, Case No. 04-139, which are pending before the Honorable Dale A. Kimball in the United States District Court for the District of Utah.

SCO's Motion to Compel Linux Contribution Information

On April 19, 2005, the Court rejected IBM's attempt to limit its obligations to produce documents concerning its contributions to Linux. "The Court's prior orders make it clear," stated the Court, "that IBM is to provide ALL non-public Linux contribution information." Order (4/19/05) at 5 (emphasis in original).

On July 19, 2005, IBM represented to SCO that it had produced "all the non-public Linux contribution information" that it is obligated to produce. However, in reviewing IBM's production after August 1, 2005 (the deadline for IBM to produce all required documents), SCO found a virtual absence of that information, even from IBM projects, affiliates, and partners publicly known to have staged its Linux contributions.

On September 6, 2005, after IBM had twice confirmed it would not produce that information, SCO filed its most recent Renewed Motion to Compel. On September 26, IBM filed its Opposition, admitting that it had withheld that information. Although the Court's Orders had made clear that the development history of Linux was central to SCO's case and had directed IBM to produce even documents concerning the programming history AIX and Dynix as interim stages in that development, IBM now argued that the direct development history of Linux was "immaterial, unnecessary, and irrelevant." The Court will hear oral argument on this motion on October 7, 2005.

SCO's Pending Renewed Motion to Compel Discovery

The Court will also hear oral argument on October 7 on SCO's December 23, 2004 Renewed Motion to Compel Discovery seeking Linux-related documents from the files of IBM's senior executives and Board of Directors.

New Motions

On September 20, 2005, SCO filed its Expedited Motion and Supporting Memorandum for Leave to Take Additional Depositions. SCO asked the Court for leave to take twenty-five additional depositions, based on certain developments since the time of the original allotment, including IBM's assertion of fourteen counterclaims and the Court's finding that materials from thousands of programmers are relevant to SCO's case. SCO also stated that it would not oppose any IBM request to take the same number of additional depositions. The Court will also hear oral argument on this motion on October 7, 2005.

On September 26, 2005, IBM filed its Motion to Compel Production of Documents on SCO's Privilege Log, alleging that SCO withheld "hundreds" of documents based on the privilege claims of its predecessors in interest.

Novell's Counterclaims and SCO's Reply

On July 29, 2005, Novell filed its Answer and Counterclaims, asserting seven claims for relief. Contrary to the language of the Asset Purchase Agreement ("APA"), the intent of the parties to the APA, and Novell's own conduct during the seven-plus years that followed the APA's signing, Novell alleges that it did not transfer those copyrights and that it retained the right to take actions (such as waive SCO's claims against IBM) that destroy the value of the UNIX business for which SCO's predecessor paid over \$100 million in consideration.

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On September 12, 2005, SCO filed its Answer to Novell's Counterclaims. Among other things, SCO set forth specific facts dispelling the assertion that SCO contacted Novell in 2002 to ask for the transfer of the UNIX copyrights.

SCO will submit its next 90-day update letter by January 2, 2006.

Respectfully,

/s/ Leslie A. Polizoti (#4299)

LAP/bav

cc: Peter T. Dalleo, Clerk (By Hand)
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