

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

1201 NORTH MARKET STREET
P.O. Box 1347
WILMINGTON, DELAWARE 19899-1347

302 658 9200
302 658 3989 FAX

LESLIE A. POLIZOTI
302 351 9415
302 425 3084 FAX
lpolizoti@mnat.com

October 4, 2006

The Honorable Sue L. Robinson, Chief Judge
United States District Court
District of Delaware
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 occurring since our last update (on July 3, 2006) in SCO v. IBM, Case No. 2:03CV0294 (DAK), which is pending before the Honorable Dale A. Kimball in the United States District Court for the District of Utah.

Summary Judgment Motions

On September 25, 2006, the court-established date for the parties to file summary judgment motions, the parties submitted the following:

SCO's Motion for Partial Summary Judgment on SCO's Third Cause of Action, For Breach of Contract;

SCO's Motion for Summary Judgment on IBM's Second, Third, Fourth and Fifth Counterclaims;

SCO's Motion for Summary Judgment on IBM's Sixth, Seventh and Eighth Counterclaims;

IBM's Motion for Summary Judgment on Its Claim For Copyright Infringement (IBM's Eighth Counterclaim);

IBM's Motion for Summary Judgment on Its Claim for Declaratory Judgment of Non-Infringement (IBM's Tenth Counterclaim);

IBM's Motion for Summary Judgment on SCO's Contract Claims (SCO's First Second, Third and Fourth Causes of Action);

IBM's Motion for Summary Judgment on SCO's Copyright Claim (SCO's Fifth Cause of Action);

IBM's Motion for Summary Judgment on SCO's Interference Claims (SCO's Seventh, Eighth and Ninth Causes of Action); and

IBM's Motion for Summary Judgment on SCO's Unfair Competition Claim (SCO's Sixth Cause of Action).

IBM's Spoliation of Evidence

Also on September 25, 2006, SCO filed its Motion for Relief for IBM's Spoliation of Evidence. In its supporting memorandum, SCO argues that IBM executives directed the widespread destruction of plainly relevant materials and accordingly asks the Court to impose an adverse-inference instruction against IBM and preclude IBM from contesting that it relied on AIX and Dynix source code in making its contributions to Linux development.

Pending Motions

By an order dated June 28, 2006, Magistrate Judge Wells granted in part IBM's motion to limit SCO's claims related to allegedly misused materials. On July 13, SCO filed objections to that order with Judge Kimball. SCO argued (among other things) that it had fully complied with the Court's orders because they did not require the level of specificity imposed by the Magistrate who relied in part on materials beyond the orders, SCO in addition had not willfully violated the orders because it had in good faith produced all obtainable information identifying the allegedly misused materials, and the Magistrate Judge failed to make particularized findings and hold an evidentiary hearing to consider prejudice on an item-by-item basis. The parties have fully briefed SCO's objections, and the Court has set oral argument for October 24, 2006.

The Court has not set a hearing date for IBM's Motion to Confine SCO's Claims to, and Strike Allegations in Excess of, the Final Disclosures, which was fully briefed as of June 26, 2006.

Expert Discovery

On July 17, 2006, the parties exchanged rebuttal expert reports, and, as of September 27, had completed all but one of the noticed expert depositions.

The Honorable Sue L. Robinson
October 4, 2006
Page 3

SCO v. Novell Case

On August 21, 2006, the Court issued an Order denying in part and granting in part Novell's Motion to Stay Claims Raising Issues Subject to Arbitration. The Court stayed "the portions of claims relating to SuSE" pending arbitration, but ordered that "claims asserted in relation to the APA and TLA" proceed.

On September 25, 2006, Novell filed its Amended Counterclaims, including two new legal claims based on the allegations that SCO had wrongfully failed to pass through to Novell certain licensing fees. On September 29, Novell filed its Motion for Partial Summary Judgment or Preliminary Injunction based on those allegations.

Respectfully,

/s/ Leslie A. Polizoti

Leslie A. Polizoti (#4299)

cc: Dr. Peter T. Dalleo, Clerk (By Hand)
Josy W. Ingersoll, Esquire (By Hand)
William F. Lee, Esquire (By Fax)
Edward Normand, Esquire (By Fax)
Mauricio A. Gonzalez, Esquire (By Fax)