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September 21, 2004

**VIA FACSIMILE AND MAIL**

Paxton R. Guymon  
MILLER, MAGLEBY & GUYMON  
170 South Main Street, #350  
Salt Lake City, Utah 84101

Re: SCO v. IBM

Dear Paxton:

This letter will follow up and confirm your messages and our conversation concerning the deposition of John Terpstra, currently scheduled for this Thursday, September 23, 2004. You have confirmed that both you and Mr. Terpstra are available at that time, and I have told you that IBM is prepared to go forward with the deposition as scheduled. However, counsel for SCO apparently contacted you on Monday, September 20 and asked that the deposition be postponed, ostensibly because none of the many lawyers who have entered an appearance in the case are available for the deposition.

Needless to say, we find it difficult to believe that none of the lawyers from the three law firms that have entered an appearance on behalf of SCO are available to cover the deposition, particularly since they have known about it since August 31, and we specifically invited SCO's counsel to advise us by September 10 if any of the dates were unacceptable. We, of course, heard nothing until receiving your message yesterday. As in the past, SCO has waited until the last possible moment to further delay discovery in this case.

We do not, however, wish to put you or your client in the middle of this dispute, and are therefore willing to move his deposition. We assume that it will not be necessary to re-serve him with a subpoena. If that is not the case, please let me know.

In response to your proposed alternative dates, we are available on November 2, November 3, or November 4. By copy of this letter, I ask that counsel for SCO inform both of us which of those dates they would prefer. I understand from our conversation that you are leaving town on Friday, and that your client is leaving town next week. For that reason, we need to have that date set no later than the close of business on Wednesday, September 22. If we do not hear from counsel for SCO by that time, we will proceed with the deposition on Tuesday, November 2, 2004, beginning at 9:00 a.m. in our offices.

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Thanks again for your cooperation. If you have any questions or would like to discuss this further, please feel free to contact me at any time.

Very truly yours,

Snell & Wilmer



Todd M. Shaughnessy

cc: Brent Hatch  
Dave Marriott  
Chris Kao  
Amy Sorenson