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*Attorneys for Defendant/Counterclaim-Plaintiff
International Business Machines Corporation*

**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.

**DECLARATION OF TODD M.
SHAUGHNESSY**

Civil No. 2:03CV-0294 DAK

Honorable Dale A. Kimball

Magistrate Judge Brooke C. Wells

DECLARATION OF TODD M. SHAUGHNESSY

I, Todd M. Shaughnessy, declare as follows:

1. I represent IBM in the lawsuit brought by SCO against IBM, titled The SCO Group, Inc. v. International Business Machines Corporation, Civil No. 2:03CV-0294 DAK (D. Utah 2003). This declaration is submitted in support of Defendant/Counterclaim-Plaintiff IBM's Motion for Summary Judgment on SCO's Seventh, Eighth, and Ninth Causes of Action.

2. On December 20, 2005, I, along with David Marriott, counsel for IBM, spoke with Ted Normand, counsel for SCO, about the fact that SCO's CEO, Darl McBride, and SCO's General Counsel, Ryan Tibbitts, in their then-recent depositions had, for the first time, stated that SCO was claiming that IBM had interfered with SCO's relationships with dozens or even hundreds of companies. This testimony was inconsistent with SCO's prior interrogatory responses pertaining to SCO's interference claims and with prior Rule 30(b)(6) deposition testimony provided by SCO on the subject.

3. In response, Mr. Normand stated that SCO had determined it intended to limit the number of companies for which SCO was claiming interference to ten, and possibly to five, and that he would provide IBM with an updated interrogatory response that would list only the five or ten companies at issue as soon as possible. In response, we informed Mr. Normand that if that did not occur, we were prepared to bring the issue of SCO's unfairly expanding its interference claim only weeks before the close of fact discovery to the attention of the Court.

4. On or about December 28, 2005, Mr. Normand informed me that SCO intended to identify only six companies in response to Interrogatory No. 8, that those would be BayStar Capital, Hewlett-Packard, Oracle Corporation, AutoZone, Inc., Intel Corporation, and Novell, and that SCO would promptly supplement its interrogatory answers accordingly.

5. On or about January 13, 2006, SCO provided IBM with its Supplemental Response to Interrogatory No. 8. In it, SCO identified BayStar, Hewlett-Packard, Intel, Computer Associates International, Inc., Oracle, and an open source conference hosted by John Terpstra in Scottsdale, Arizona as companies or entities with which IBM had interfered in various ways, as well as identifying 19 former SCO customers and 156 additional companies that SCO claims — “on information and belief” — chose “an enterprise-hardened Linux platform as a result of IBM’s . . . misconduct.” (1/13/06 SCO’s Supplemental Response to Interrogatory No. 8 at 2-7, 11-13.)

I declare under penalty of perjury that the foregoing is true and correct.

Executed: September 22nd, 2006.

Salt Lake City, Utah



Todd M. Shaughnessy