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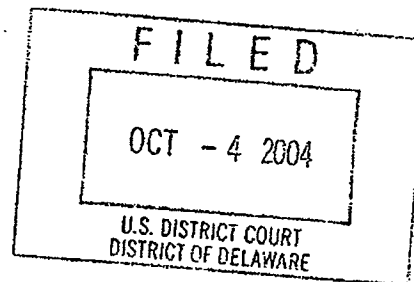
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October 4, 2004



BY HAND DELIVERY

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

Re: Red Hat, Inc. v. The SCO Group, Inc.
Civil Action No. 03-772-SLR

Dear Judge Robinson:

Pursuant to the Court's April 6, 2004 Order requesting a quarterly report on the status of various related litigation matters, Red Hat, Inc. submits this letter as an update to its previous letter dated July 6, 2004. Although Red Hat is not a party to these other related cases (and on that basis urges the Court to reconsider its order staying this *Red Hat* litigation), Red Hat offers the following summary based upon publicly available information.

1. SCO Group, Inc. v. International Business Machines Corp.

As of the date of Red Hat's previous letter, two substantive motions were pending before the court: SCO's motion to dismiss, or in the alternative, stay IBM's counterclaim ten and IBM's motion for partial summary judgment on IBM's tenth counterclaim for a declaratory

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judgment of non-infringement of copyrights. On September 15, 2004, a hearing was held to address these motions.

The crux of SCO's argument in support of its motion to dismiss IBM's declaratory judgment claim that it infringes no SCO copyrights is that the declaratory judgment claim goes beyond the breach of contract claim raised in SCO's complaint. In other words, SCO argued that there was not enough overlap between SCO's claims for breach of contract and IBM's counterclaim for non-infringement of copyrights to justify allowing IBM's counterclaim to proceed. IBM asserted that SCO's complaint for breach of contract directly raises the issue of copyright infringement. (Tr. at 24: 21-22.)

IBM also noted that SCO has made a plethora of contradictory statements about the nature of its claims against IBM. More specifically, IBM pointed to SCO's representation to this Court that "[t]he infringement issues that Red Hat seeks to adjudicate in this case are currently before United States District Judge Dale A. Kimball in the SCO v. IBM case pending in the Utah Federal District Court." (Tr. at 28: 6-9.) SCO maintained to the Utah Court – in direct contradiction to its statements to this Court – that "[the IBM case] is not about, it never was about copyright violations." (Tr. at 39: 5-6).

IBM argued that the Utah court should enter summary judgment in its favor on its counterclaim for a declaratory judgment of non-infringement of copyright because SCO failed to substantiate its public accusations of copyright infringement by IBM and others. IBM asserted that SCO's failure to respond to interrogatories that request identification of the specific code IBM is accused of infringing reveals that SCO cannot support its public claims of infringement. IBM argued that the only evidence SCO requires to prove copyright infringement is the Unix code—which SCO has in its possession—and the Linux code—which is publicly available.

The court took all of the motions under advisement and adjourned the hearing.

2. SCO Group, Inc. v. AutoZone, Inc.

As of the date of Red Hat's previous letter updating the Court on the status of these related cases, Autozone had filed a motion seeking to stay the action pending resolution of the Red Hat case, the IBM case, and the dispute between Novell and SCO regarding ownership of the UNIX copyrights. On July 12, 2004, the Court held a hearing on this motion, during which SCO argued that the Autozone case should not be stayed and asserting, *inter alia*, that it sued Novell for "essentially a slander of title. It is not a copyright case. It is not a copyright-infringement case." (Tr. at 16: 21-24);

By its order dated August 6, 2004, the court granted Autozone's motion to stay, requiring each party to submit an update letter to the court every 90 days as to the status of the IBM, Novell, and Red Hat cases. Notwithstanding this stay, the court allowed the parties to take limited expedited discovery related to the issue of preliminary injunctive relief.

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3. SCO v. Novell, Inc.

On January 20, 2004, SCO filed suit against Novell, Inc. in Utah state court asserting a single cause of action for slander of title. The complaint alleges that Novell has caused damage to SCO by publicly and falsely representing that it owns copyrights to Unix and UnixWare. The action was removed to the District Court for the District of Utah and shortly thereafter, Novell brought a motion to dismiss, arguing that SCO failed to sufficiently plead its falsity and special damages claims. Concurrent with the filing of its opposition to Novell's motion to dismiss, SCO brought a motion to remand the case to state court. A hearing was held on both of these motions on May 11, 2004.

By its order dated June 9, 2004, the court denied SCO's motion to remand, finding that there was a substantial question as to whether Section 204(a) of the Copyright Act had been satisfied. The order also denied Novell's motion to dismiss as to SCO's pleading of falsity, and granted Novell's motion to dismiss as to SCO's pleading of special damages. Soon after this order was issued, SCO amended its complaint. Novell responded with a motion to dismiss, which is currently pending before the court.

4. SCO v. DaimlerChrysler Corporation

On March 3, 2004, SCO filed suit in the Circuit Court for the County of Oakland in the State of Michigan against DaimlerChrysler Corporation ("DaimlerChrysler") claiming that DaimlerChrysler was in breach of its Unix System V licensing agreement. The basis of the alleged breach was SCO's assertion that DaimlerChrysler had refused to respond to a December 2003 letter from SCO requesting a "certification of compliance" as required by the agreement. DaimlerChrysler moved for summary judgment on April 15, 2004, arguing that it had submitted the necessary certification of compliance, even though it has not used the software for more than seven years and it was under no obligation to provide the certification. At the hearing held on July 2, 2004, SCO asserted that DaimlerChrysler failed to provide full certification because it had not certified that it had kept the source code confidential. The court disagreed with SCO, and granted summary judgment to DaimlerChrysler on all of the claims with respect to the sufficiency of DaimlerChrysler's certification, leaving only one remaining claim challenging the timeliness of DaimlerChrysler's certification.

* * *

In conclusion, the events in these related cases over the past 90 days provide further evidence of SCO's litigation strategy of delaying for as long as possible resolution of the copyright claims that are at the heart of the pending lawsuits. As demonstrated by IBM at the September 15, 2004 hearing, SCO continues to make inconsistent statements to this Court and to other courts, taking whatever position suits its purpose at the time. For these reasons, we

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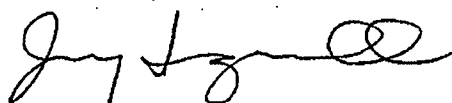
The Honorable Sue L. Robinson

October 4, 2004

Page 4

respectfully request the Court to lift the order staying the case filed by Red Hat as requested in Red Hat's pending Motion for Reconsideration.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Josy W. Ingersoll", with a stylized flourish at the end.

Josy W. Ingersoll

JWI:cg

cc: Clerk of the Court (by hand)
Jack B. Blumenfeld, Esquire (by hand)
Stephen N. Zack, Esquire (by facsimile)
Mark G. Matuschak, Esquire (by facsimile)

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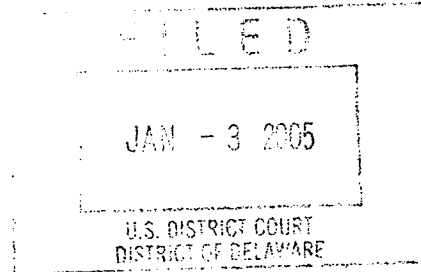
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January 3, 2005

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BY HAND

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



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

Dear Chief Judge Robinson:

We write pursuant to Your Honor's April 6, 2004 Order to summarize the status of the *SCO v. IBM* case pending before the Honorable Dale A. Kimball in the United States District Court for the District of Utah. Since our last update to the Court, on October 4, 2004, the following has transpired:

On October 14, SCO filed a Motion to Amend its complaint, seeking to add a single copyright claim relating to IBM's use of infringing SCO code in its AIX product. The parties have now fully briefed the motion, but no date for oral argument has been scheduled.

On October 19, the parties argued SCO's two pending discovery applications before the Magistrate Judge. During the hearing, the Magistrate Judge ordered IBM to provide affidavits concerning its production of certain Linux-related documents that the Court had previously ordered produced, required the parties to exchange privilege logs, and took the remainder of SCO's discovery applications under advisement. (The Court entered a written Order on October 20.) On November 19, IBM filed (under seal) four affidavits in response to the Magistrate Judge's October 20 Order, and on November 19, 2004, the parties exchanged privilege logs.

On December 22, SCO filed a Motion to Compel IBM to produce more detailed affidavits in response to the Magistrate Judge's October 20 Order, and to compel IBM to produce witnesses to testify on several topics in two Rule 30(b)(6) notices of deposition that SCO had served.

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SCO has filed Memoranda in Opposition to IBM's Motion for Summary Judgment on Its Eighth Counterclaim and Motion for Summary Judgment on SCO's Contract Claims. (IBM's reply briefs are due on January 14, 2005.)

In addition, the parties have taken nine additional depositions and have noticed more than twenty additional depositions for January and February 2005.

We will provide the Court with another update of the status of the litigation on or about April 4, 2005.

Respectfully,



Jack B. Blumenfeld

JBB/bls

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

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January 3, 2005

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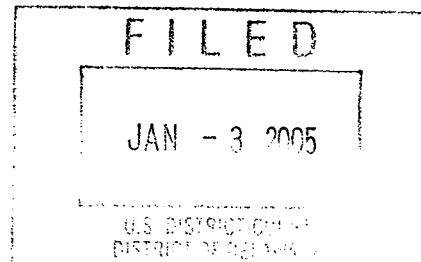
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Civil Action No. 03-772-SLR

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1. *SCO Group, Inc. v. International Business Machines Corp.*

As of October 4, 2004 when Red Hat submitted its last update, SCO's motion to dismiss, or in the alternative, stay IBM's counterclaim ten and IBM's motion for partial summary judgment on IBM's tenth counterclaim for a declaratory judgment of non-infringement of copyright were pending. Both motions remain under consideration.



YOUNG CONAWAY STARGATT & TAYLOR, LLP

The Honorable Sue L. Robinson

January 3, 2005

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On October 14, 2004, SCO filed a motion for leave to file a third amended complaint. IBM filed an opposition to this motion on November 30, 2004. All of the briefs relating to this motion have been sealed.

On November 30, 2004, G2 Computer Intelligence, Inc. ("G2"), a publisher of IT industry publications, filed a motion to intervene and motion to unseal the court's file. G2 requests, pursuant to Federal Rule of Civil Procedure 24(b), that it be permitted to intervene, and that the stipulated protective order entered into by the parties on September 16, 2003 be vacated or modified to permit public disclosure of the court's sealed records. The basis for G2's motion is that the denial of the public's right to access the sealed pleadings not only violates the common law right of public access to judicial records, but also the public's First Amendment right to oversee their judicial system. As of the date of this letter, neither party has responded to G2's motion.

2. *SCO Group, Inc. v. AutoZone, Inc.*

The Autozone case has been stayed since August 6, 2004, subject to a limited period of discovery relating to the issue of preliminary injunctive relief. This period of limited discovery ended December 13, 2004. The parties also entered into a protective order on October 29, 2004.

3. *SCO v. Novell, Inc.*

Since Red Hat's October 4, 2004 update letter, Novell has filed motion to dismiss the amended complaint. Novell makes two main arguments in its motion: (1) that it cannot be liable for slander of title because it has a legal privilege to make a good-faith assertion of a rival property claim and to protect; and (2) SCO cannot show that Novell acted with malice, which it asserts is a necessary element of an action of slander of title. The motion has been fully briefed, and a hearing has been scheduled for January 20, 2005.

4. *SCO v. DaimlerChrysler Corporation*

Since October 4, 2004, the court granted summary judgment to DaimlerChrysler on all of its claims with respect to the sufficiency of its certification, leaving only one claim challenging the timeliness of the certification. On November 17, 2004, SCO filed a Motion For Stay of Proceedings, asserting that this case should be stayed until the IBM case has been resolved because a ruling in the IBM case would "provide important guidance concerning the obligations of end users like [DaimlerChrysler] under the certification requirement at issue here." In its opposition, DaimlerChrysler argued that SCO has no basis for a stay primarily because the IBM case has no bearing on the timeliness issue. DaimlerChrysler explained in its opposition that SCO had essentially abandoned its prosecution of the case -- missing each deadline set by the court, failing to initiate discovery, failing to respond to DaimlerChrysler's discovery requests, and failing to file witness and exhibit lists per the court's amended scheduling order. The court heard oral argument on November 24, 2004 and denied SCO's motion to stay. On December 21, 2004, the court entered a Stipulated Order of Dismissal Without Prejudice. SCO has until January 11, 2005 to file a claim of appeal.

YOUNG CONAWAY STARGATT & TAYLOR, LLP

The Honorable Sue L. Robinson

January 3, 2005

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In conclusion, the events in these related cases over the past 90 days -- most notably SCO's actions in the DaimlerChrysler case -- provide further evidence of SCO's litigation strategy of delaying for as long as possible resolution of the copyright claims that are at the heart of the pending lawsuits.

Respectfully submitted,



Josy W. Ingersoll

JWI:cg

cc: Clerk of the Court (by hand)

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