
**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

The **SCO GROUP, INC.**, et al.,

Debtors.

Chapter 11

Case No. **07-11337 (KG)**
(Jointly Administered)

Hearing: January 29, 2009 at 2:00 p.m.
Objections due: January 22, 2009
at 4:00 p.m.

**MOTION OF PETROFSKY FOR AN ORDER ENFORCING ELECTRONIC
TEXT REQUIREMENT**

1. I, Alan P. Petrofsky, an equity security holder of Debtor The SCO Group, Inc., hereby move the court for an order enforcing the electronic text requirement of LR 5005-4.

JURISDICTION

2. The Court has jurisdiction over the matters subject of this motion pursuant to 11 U.S.C. §157 and §1334.

BACKGROUND

3. Local Rule 5005-4 states, “All petitions, complaints, motions, briefs and other pleadings and documents to be filed electronically with the Court shall be converted to PDF, electronically, as opposed to scanning a document, where practicable”.

4. The benefits of compliance with LR 5005-4 include: (a) readability; (b) reduced transmission times and storage space requirements; and (c) most importantly, the presence of accurate electronic text in the document, which is necessary for electronically searching a document and for electronically creating accurate block quotations from a document in subsequent briefs that refer to it.

5. Noncompliance with LR 5005-4 has been egregious and rampant in this case.

6. All of creditor Novell, Inc.'s briefs have been document scans that did not include any electronic text. See dkt. #89, #90, #177, ... #586.

7. The Debtors' recently-filed disclosure statement (dkt. #655), arguably the most important document filed to date, is 58 pages long, without a single word of electronic text.

8. In the vast majority of the Debtors' filings (which, of course, comprise the majority of the documents filed by anyone in this case), the only electronic text included is text generated by way of Optical Character Recognition ("OCR"). That is, instead of the original document being "converted to PDF, electronically, as opposed to scanning a document", as required by LR 5005-4, the document has been: (a) printed out onto paper; (b) scanned back in to a computer as a textless low-quality image; and then (c) annotated with an OCR program's poor guesses as to what the original text was. This is madness. Simple compliance with the rule would require less effort from the Debtors.

9. The legibility of the Debtors' documents suffers as a result of the scanning, and in some instances, the documents are completely illegible, e.g.:

SCHEDULE OF PROFESSIONAL FEES AND EXPENSES PAID
(This schedule is to include all retained professional payments from case inception to current month)

Firm	Period Covered	Amount Approved	Firm	Check		Amount Paid	Amount Applied	
				Number	Date		Expenses	Fees
Bank	07/01/08			601062	07/24/08	\$0.00		
Bank	07/01/08			601065	07/24/08	2,430		
Bank	07/01/08			601066	07/24/08	1,215		
Bank	07/01/08			601067	07/24/08	1,215		
Bank	07/01/08			601068	07/24/08	1,215		
Bank	07/01/08			601069	07/24/08	1,215		
Bank	07/01/08			601070	07/24/08	1,215		
Bank	07/01/08			601071	07/24/08	1,215		
Bank	07/01/08			601072	07/24/08	1,215		
Bank	07/01/08			601073	07/24/08	1,215		
Bank	07/01/08			601074	07/24/08	1,215		
Bank	07/01/08			601075	07/24/08	1,215		
Bank	07/01/08			601076	07/24/08	1,215		
Bank	07/01/08			601077	07/24/08	1,215		
Bank	07/01/08			601078	07/24/08	1,215		
Bank	07/01/08			601079	07/24/08	1,215		
Bank	07/01/08			601080	07/24/08	1,215		
Bank	07/01/08			601081	07/24/08	1,215		
Bank	07/01/08			601082	07/24/08	1,215		
Bank	07/01/08			601083	07/24/08	1,215		
Bank	07/01/08			601084	07/24/08	1,215		
Bank	07/01/08			601085	07/24/08	1,215		
Bank	07/01/08			601086	07/24/08	1,215		
Bank	07/01/08			601087	07/24/08	1,215		
Bank	07/01/08			601088	07/24/08	1,215		
Bank	07/01/08			601089	07/24/08	1,215		
Bank	07/01/08			601090	07/24/08	1,215		
Bank	07/01/08			601091	07/24/08	1,215		
Bank	07/01/08			601092	07/24/08	1,215		
Bank	07/01/08			601093	07/24/08	1,215		
Bank	07/01/08			601094	07/24/08	1,215		
Bank	07/01/08			601095	07/24/08	1,215		
Bank	07/01/08			601096	07/24/08	1,215		
Bank	07/01/08			601097	07/24/08	1,215		
Bank	07/01/08			601098	07/24/08	1,215		
Bank	07/01/08			601099	07/24/08	1,215		
Bank	07/01/08			601100	07/24/08	1,215		
Bank	07/01/08			601101	07/24/08	1,215		
Bank	07/01/08			601102	07/24/08	1,215		
Bank	07/01/08			601103	07/24/08	1,215		
Bank	07/01/08			601104	07/24/08	1,215		
Bank	07/01/08			601105	07/24/08	1,215		
Bank	07/01/08			601106	07/24/08	1,215		
Bank	07/01/08			601107	07/24/08	1,215		
Bank	07/01/08			601108	07/24/08	1,215		
Bank	07/01/08			601109	07/24/08	1,215		
Bank	07/01/08			601110	07/24/08	1,215		
Bank	07/01/08			601111	07/24/08	1,215		
Bank	07/01/08			601112	07/24/08	1,215		
Bank	07/01/08			601113	07/24/08	1,215		
Bank	07/01/08			601114	07/24/08	1,215		
Bank	07/01/08			601115	07/24/08	1,215		
Bank	07/01/08			601116	07/24/08	1,215		
Bank	07/01/08			601117	07/24/08	1,215		
Bank	07/01/08			601118	07/24/08	1,215		
Bank	07/01/08			601119	07/24/08	1,215		
Bank	07/01/08			601120	07/24/08	1,215		
Bank	07/01/08			601121	07/24/08	1,215		
Bank	07/01/08			601122	07/24/08	1,215		
Bank	07/01/08			601123	07/24/08	1,215		
Bank	07/01/08			601124	07/24/08	1,215		
Bank	07/01/08			601125	07/24/08	1,215		
Bank	07/01/08			601126	07/24/08	1,215		
Bank	07/01/08			601127	07/24/08	1,215		
Bank	07/01/08			601128	07/24/08	1,215		
Bank	07/01/08			601129	07/24/08	1,215		
Bank	07/01/08			601130	07/24/08	1,215		
Bank	07/01/08			601131	07/24/08	1,215		
Bank	07/01/08			601132	07/24/08	1,215		
Bank	07/01/08			601133	07/24/08	1,215		
Bank	07/01/08			601134	07/24/08	1,215		
Bank	07/01/08			601135	07/24/08	1,215		
Bank	07/01/08			601136	07/24/08	1,215		
Bank	07/01/08			601137	07/24/08	1,215		
Bank	07/01/08			601138	07/24/08	1,215		
Bank	07/01/08			601139	07/24/08	1,215		
Bank	07/01/08			601140	07/24/08	1,215		
Bank	07/01/08			601141	07/24/08	1,215		
Bank	07/01/08			601142	07/24/08	1,215		
Bank	07/01/08			601143	07/24/08	1,215		
Bank	07/01/08			601144	07/24/08	1,215		
Bank	07/01/08			601145	07/24/08	1,215		
Bank	07/01/08			601146	07/24/08	1,215		
Bank	07/01/08			601147	07/24/08	1,215		
Bank	07/01/08			601148	07/24/08	1,215		
Bank	07/01/08			601149	07/24/08	1,215		
Bank	07/01/08			601150	07/24/08	1,215		
Bank	07/01/08			601151	07/24/08	1,215		
Bank	07/01/08			601152	07/24/08	1,215		
Bank	07/01/08			601153	07/24/08	1,215		
Bank	07/01/08			601154	07/24/08	1,215		
Bank	07/01/08			601155	07/24/08	1,215		
Bank	07/01/08			601156	07/24/08	1,215		
Bank	07/01/08			601157	07/24/08	1,215		
Bank	07/01/08			601158	07/24/08	1,215		
Bank	07/01/08			601159	07/24/08	1,215		
Bank	07/01/08			601160	07/24/08	1,215		
Bank	07/01/08			601161	07/24/08	1,215		
Bank	07/01/08			601162	07/24/08	1,215		
Bank	07/01/08			601163	07/24/08	1,215		
Bank	07/01/08			601164	07/24/08	1,215		
Bank	07/01/08			601165	07/24/08	1,215		
Bank	07/01/08			601166	07/24/08	1,215		
Bank	07/01/08			601167	07/24/08	1,215		
Bank	07/01/08			601168	07/24/08	1,215		
Bank	07/01/08			601169	07/24/08	1,215		
Bank	07/01/08			601170	07/24/08	1,215		
Bank	07/01/08			601171	07/24/08	1,215		
Bank	07/01/08			601172	07/24/08	1,215		
Bank	07/01/08			601173	07/24/08	1,215		
Bank	07/01/08			601174	07/24/08	1,215		
Bank	07/01/08			601175	07/24/08	1,215		
Bank	07/01/08			601176	07/24/08	1,215		
Bank	07/01/08			601177	07/24/08	1,215		
Bank	07/01/08			601178	07/24/08	1,215		
Bank	07/01/08			601179	07/24/08	1,215		
Bank	07/01/08			601180	07/24/08	1,215		
Bank	07/01/08			601181	07/24/08	1,215		
Bank	07/01/08			601182	07/24/08	1,215		
Bank	07/01/08			601183	07/24/08	1,215		
Bank	07/01/08			601184	07/24/08	1,215		
Bank	07/01/08			601185	07/24/08	1,215		
Bank	07/01/08			601186	07/24/08	1,215		
Bank	07/01/08			601187	07/24/08	1,215		
Bank	07/01/08			601188	07/24/08	1,215		
Bank	07/01/08			601189	07/24/08	1,215		
Bank	07/01/08			601190	07/24/08	1,215		
Bank	07/01/08			601191	07/24/08	1,215		
Bank	07/01/08			601192	07/24/08	1,215		
Bank	07/01/08			601193	07/24/08	1,215		
Bank	07/01/08			601194	07/24/08	1,215		
Bank	07/01/08			601195	07/24/08	1,215		
Bank	07/01/08			601196	07/24/08	1,215		
Bank	07/01/08			601197	07/24/08	1,215		
Bank	07/01/08			601198	07/24/08	1,215		
Bank	07/01/08			601199	07/24/08	1,215		
Bank	07/01/08			601200	07/24/08	1,215		

(Monthly Operating Report for the reporting period of July 2008 for SCO Operations, Inc., dkt. #551, at p. 5, September 15, 2008) (shown actual size)

10. Because the Debtors' have been generating their electronic documents by scanning and OCR, contrary to the requirements of LR 5005-4, the electronic text of Debtors' documents are riddled with spelling errors that inhibit electronic searching of the documents, e.g.:

The Company cautions readers not to place undue reliance upon the Monthly Operating Reports. There can be no assurance that the information in the Monthly Operating Reports is complete. The Monthly Operating Reports are in a format required by the United States Trustee and should not be used for investment purposes. The information in the Monthly Operating Reports should not be viewed as indicative of results. This Disclaimer applies to all information contained herein.

(electronic text of Monthly Operating Report for the reporting period of October 2008 for SCO Operations, Inc., dkt. #551, at p. 2

process has many problems and should not be done before e-filing them.

...

(“CM/ECF Frequently Asked Questions”, PACER Service Center, last updated October 1, 2008)¹

12. When I requested last year that the Debtors begin complying with LR 5005-4, they refused, saying that their local counsel’s policy, in flagrant disregard of LR 5005-4, is to print out and scan back in all documents before they are filed.

GROUND FOR RELIEF

13. Local Rule 5005-4 requires that, “All petitions, complaints, motions, briefs and other pleadings and documents to be filed electronically with the Court shall be converted to PDF, electronically, as opposed to scanning a document, where practicable”.

14. The rule requires that electronically filed documents include accurate electronic text (i.e., not be generated by image scanning) whenever “practicable”. Parties have clearly been ignoring the rule and routinely filing document scans when there was no reason that the proper, scanless generation of a PDF file was impracticable.

15. The proposed order is a modest, measured step, which, it is hoped, will suffice to greatly increase compliance with the rule. Rather than impose any sanctions for past noncompliance, it simply requires, for certain document types, that in the rare event that filing a document with accurate electronic text is not practicable, the filing party must include a certification describing the extraordinary circumstances that resulted in the impracticability.

¹<http://pacer.psc.uscourts.gov/cmecf/ecffaq.html#TA5>

16. The order defines a set of document types (the “Presumed Practicable” documents) for which the practicability of proper PDF generation will be ordinarily presumed, and for which certification will be required in the rare event of impracticability. The Presumed Practicable documents are: petitions, complaints, motions, briefs, notices, applications, objections, proposed orders, plans, disclosure statements, schedules, periodic operating reports, declarations, and affidavits. The Presumed Practicable document types do not include exhibits nor certificates of service.

17. In contrast to exhibits, which may have been obtained non-electronically from third parties, all of the Presumed Practicable document types are documents that are nearly always electronically generated by the filing party itself. Therefore, there is ordinarily no reason that it would be impracticable for the filing party to directly generate a PDF copy of the document for filing, without any scanning step.

18. The order also requires that the Debtors file, within ten days of the entry of the order, properly generated electronic copies of a small number of their most important recent filings: the amended plan and disclosure statement, and the most recent monthly operating reports.

NOTICE

19. Notice of this Motion has been or will be given to the following parties: (i) the Debtors; (ii) the Office of the United States Trustee; (iii) the creditors holding the 20 largest unsecured claims against the Debtors’ estates (on a consolidated basis); and (iv) every party that has made a request for notices that has been filed and entered on the Court’s docket prior to the date of this Motion.

CONCLUSION

20. WHEREFORE, I respectfully request that the Court enter an order, substantially in the form attached hereto, granting (i) this Motion, and (ii) such other and further relief as this Court deems proper and just.

Respectfully submitted this Eleventh day of January, 2009,

/s/ Alan P. Petrofsky

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