
**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 24, 2009
at 4:00 p.m.

Related Docket Nos.: 659, 670, 674

**REPLY TO OBJECTION TO CERTIFICATE OF NO OBJECTION TO
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 reply to the *Objection to Certificate of No Objection to Motion of Petrofsky for an Order Enforcing Electronic Text Requirement*, Docket No. 674, filed by the Debtors on January 27, 2009 (the “CNO Objection”).

UNTIMELINESS OF THE OBJECTION TO THE MOTION

2. The Local Rules specify that “any objection to a motion shall be made in writing” (LR 9013-1(h)) and that “[i]n all instances, any objection must be filed and served so as to be received on or before the applicable objection deadline” (LR 9006-1(c)(ii)).

3. The objection deadline for this motion – as I stated in my Certificate of No Objection (Docket No. 670) (the “CNO”), and the Debtors’ did not contest in the CNO Objection – was January 24, 2009 at 4:00 P.M.. This was 48 hours later than the original deadline, which I had extended as a courtesy to the Debtors.

4. At the time I filed the CNO on January 27, I had not heard anything from the Debtors since January 23.

5. As I explained to the Debtors in an email on January 23, I was not willing to extend the objection deadline any further than I did, because I wished to have adequate time to prepare a timely reply to any timely objection. I had planned ahead to have time during the four-day period between the original objection deadline (January 22), and the ordinary reply deadline (which would have been January 26, per LR 9006-1(d)). See **Exhibit A**, Email from Alan P. Petrofsky dated January 23, 2009 and response from Kathleen P. Makowski.

6. I assume that the CNO Objection is intended to serve as an objection to the motion itself, in addition to being an objection to the CNO. If it is not construed as an objection to the motion, then the motion must be considered unopposed, because “any objection must be filed” (LR 9006-1(c)(ii)), and the CNO Objection is the only document that the Debtors have filed in connection with the motion.

7. As an objection to the motion, the CNO Objection was untimely by three days. Nevertheless, I will now attempt to reply on the merits of the motion.

**THE DEBTORS DO NOT CONTEST THAT THEY ARE ALMOST
ALWAYS USING SCANNING, A METHOD THAT THE RULE
EXPLICITLY PROHIBITS WHERE PRACTICABLE**

8. Local Rule 5005-4 provides 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”.

9. I believe the following facts are uncontested:

- (a) None of the documents that have been filed by the Debtors were hand-written. Every document was originally created as a computer word-processor or spreadsheet file.
- (b) The original computer word-processor or spreadsheet file (the “Source Document”) must be converted to PDF before it can be electronically filed.
- (c) For a small number of the documents filed by the Debtors, the Source Document was converted to PDF electronically, which accurately preserved the original electronic text from the Source Document.
- (d) For the great majority of the documents filed by the Debtors, the Source Document was printed onto paper, which was later scanned to create electronic images that were placed in a PDF file. Electronic text was then added to the PDF file, under the images. This added text was generated from the images by Optical Character Recognition (“OCR”) software. The OCR text is intended to approximate the original electronic text, which was lost when the document was printed out.
- (e) For a small number of the documents filed by the Debtors, the Source Document was printed onto paper, which was later scanned to make a PDF file, to which no OCR text was added. These are the only documents with no electronic text at all. The most notable of these documents was the “Disclosure Statement

in Connection with Debtors’ Amended Joint Plan of Reorganization” (Docket No. 655). Since the filing of my motion, the Debtors have satisfied my concerns about this document. A copy of it that was electronically converted from the Source Document to PDF is now on file at Exhibit D to the CNO.

10. The Debtors contend that because they have instituted practices that result in the great majority of their filings containing OCR text, they are in compliance with LR 5005-4.

11. However, the process that the rule says must be used “where practicable” is for the document to be “converted to PDF, electronically, as opposed to scanning a document”. (LR 5005-4)

12. The wording of the rule makes clear that scanning a document is a disfavored method, to be used only when direct electronic conversion is impracticable.

13. Only a small number of the Debtors’ filings were made by direct electronic conversion, as opposed to scanning, and the Debtors’ objection makes no attempt to explain why they could not practice a much higher rate of electronic conversion.

SEARCHABILITY

14. Rather than make any statement about whether their files are being converted “electronically, as opposed to scanning a document”, which are the terms used in the rule, the Debtors contend in the objection that “the pdf copies filed on the docket are in searchable pdf format” (CNO Objection at ¶5).

15. Although the OCR text in the Debtors’ scanned documents does make them more electronically searchable than documents with no electronic text at all, it does not make them nearly as searchable as documents created by direct conversion.

16. Scanned documents with OCR text are only searchable to the extent that the OCR text is accurate. Electronic searches for words that are misspelled or missing in the OCR text will not succeed.

17. Attached at **Exhibit B** is a copy of the October 2008 Monthly Operating Report (“MOR”) for SCO Operations, Inc., Docket No. 646. Attached at **Exhibit C** is a copy of that document with the images removed to make the underlying OCR text visible. Every page has numerous errors.

18. It is presumably because of the known shortcomings of performing OCR on scanned images that the rule explicitly lists scanning as an undesirable method.

PRACTICABILITY OF ELECTRONIC CONVERSION FOR MONTHLY OPERATING REPORTS

19. There are five documents that The Modified Proposed Order attached to my CNO would require the Debtors to refile. All five are MORs.

20. Although it is not raised in the filed objection, one argument the Debtors have raised informally is that electronic conversion is not practicable for these documents in particular, because they are produced by the Debtors’ financial advisor rather than their attorneys.

21. The record shows, however, that filing electronically converted MORs must be practicable, because the Debtors have already practiced it. The October 2007 MORs for both SCO Group and SCO Operations (Docket Nos. 226 and 227) were created by electronic conversion (with the exception of their signature pages, which are scanned images). I have attached a copy of the October 2007 SCO Operations MOR as **Exhibit D**.

CONCLUSION

22. For all the reasons set forth above, in the CNO, and in the motion, I request that the objection be overruled and the motion granted.

Dated: January 29, 2009,

/s/ Alan P. Petrofsky

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EXHIBIT LIST

A. Email from Kathleen P. Makowski dated January 23, 2009, including the email from Alan P. Petrofsky to which it responds.

B. “Monthly Operating Report” for Filing Period October 2008 of SCO Operations, Inc., Docket No. 646, December 29, 2008.

C. “Monthly Operating Report” for Filing Period October 2008 of SCO Operations, Inc., Docket No. 646, December 29, 2008, with images removed to make the underlying OCR text visible.

D. “Monthly Operating Report” for Filing Period October 2007 of SCO Operations, Inc., Docket No. 227, December 29, 2008.