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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.

**IBM'S MOTION TO LIMIT SCO'S
CLAIMS RELATING TO ALLEGEDLY
MISUSED MATERIAL**

(ORAL ARGUMENT REQUESTED)

Civil No.: 2:03CV-0294 DAK

Honorable Dale A. Kimball

Magistrate Judge Brooke C. Wells

Defendant/Counterclaim-Plaintiff International Business Machines Corporation (“IBM”), through counsel, respectfully submits this motion, pursuant to Rules 1, 26, 30 and 37 of the Federal Rules of Civil Procedure, to limit the scope of SCO’s claims to the Items of allegedly misused material disclosed with sufficient specificity in SCO’s December 22, 2005 Disclosure of Material Allegedly Misused by IBM (the “Final Disclosures”).

As this Court has recognized, SCO has made a plethora of public statements accusing IBM of misconduct, while offering no support for its allegations. The Court deferred IBM’s motions for summary judgment but ordered SCO to particularize its claims, once and for all, in the Final Disclosures. SCO has declined. For 201 of its 294 Items, SCO fails to identify the allegedly misused material with the most basic detail. SCO’s failure to provide even the most basic specificity for its claims is extraordinarily prejudicial to IBM and should not be allowed. Thus, IBM respectfully requests that the Court limit SCO’s claims to the 93 Items for which SCO provides detail sufficient to identify both the allegedly misused material and the allegedly improper source of that material.

For the foregoing reasons, and as set forth in detail in the accompanying memorandum filed and served herewith, IBM respectfully requests that the Court enter an Order limiting the scope of SCO’s claims relating to allegedly misused material to the following Items in SCO’s Final Disclosures: Item Nos. 1, 113-142, 150-164, 183-185, 194-203, 205-231, and 272-278.

DATED this 13th day of February, 2006.

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/s/Todd M. Shaughnessy

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CERTIFICATE OF SERVICE

I hereby certify that on the 13th day of February, 2006, a true and correct copy of the foregoing was hand-delivered to the following:

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and a true and correct copy of the foregoing was sent by U.S. Mail, postage prepaid, to the following:

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