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THE SCO GROUP, INC. v. AUTOZONE, INC.

March 16, 2005

Doc. 48

**VIA HAND-DELIVERY**

The Honorable Robert C. Jones  
U.S. District Judge  
U.S. District Court, District of Nevada  
333 S. Las Vegas Blvd.  
Las Vegas, NV 89101

Re: **The SCO Group, Inc. v. AutoZone, Inc., CV-S-04-0237-RCJ-LRL**

Dear Judge Jones:

We are counsel to The SCO Group, Inc. ("SCO") and write to apprise the Court of recent discovery-related developments in the above-referenced matter and to request an additional brief extension of the limited discovery period for an additional 45 days.

As Your Honor will recall, on August 6, 2004, the Court ordered limited discovery, in part so that SCO could examine information, documents, and computer data in AutoZone, Inc.'s ("AutoZone") possession to determine whether AutoZone had used or copied SCO's proprietary materials in connection with, or subsequent to, AutoZone's migration from SCO's proprietary UNIX-based Operating System "OpenServer" to a Linux-based Operating System. On November 4, 2004, SCO wrote to advise the Court that the information it had obtained warranted further discovery on this issue and that AutoZone had consented to the application. The Court executed an Order extending discovery for the first time on November 12, 2004 for an additional thirty days.

Thereafter, the parties conducted extensive factual discovery during the first extended discovery period including, among other things, production by AutoZone, and analysis by SCO, of highly-technical computer programs and AutoZone store server images which elicited additional facts requiring even further discovery. Thereafter, in early January 2005, the parties jointly requested that the Court enter a Stipulation and Order further extending discovery for an additional sixty days fully-anticipating that all discovery would be completed within that period. (See Exhibit "A" hereto) The second extended discovery period will conclude on March 19, 2005.

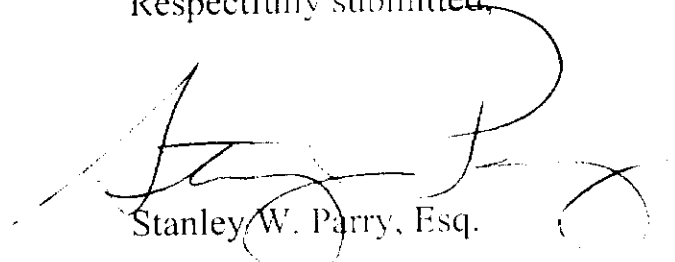
The parties now request a final 45 day discovery period as a result of unanticipated technical production problems which occurred throughout the second extended discovery period which delayed the production of responsive materials to SCO for analysis. In particular, Counsel and SCO's expert - a computer software engineer - were unable to unzip or decipher certain compact discs produced by AutoZone shortly before the

discovery deadline which contained materials responsive to SCO's discovery requests. Indeed, AutoZone did not produce a hard drive that contained the majority of the supplemental discovery until 4 days before the close of the second extended discovery period.

Given the foregoing unanticipated occurrences, and the parties contemplation that SCO will need an adequate opportunity to review and analyze the various responsive technical materials produced by AutoZone before taking the deposition of the manager of the AutoZone IT Department, the parties respectfully request that the Court enter the enclosed Stipulation and Order providing for an additional 45 day discovery period. (See Exhibit "B" hereto).

We thank the Court for its continued courtesies in connection with this matter.

Respectfully submitted,



Stanley W. Parry, Esq.

cc: James Pisanelli, Esq. (via hand-delivery)  
David J. Stewart, Esq. (via facsimile)  
David S. Stone, Esq. (via facsimile)

Reorder No. 5105  
JULIUS BLUMBERG, INC.  
NYC 10013  
\$10<sup>00</sup> P.C.M.

C. J. ...

ORIGINAL

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

THE SCO GROUP, INC.  
a Delaware Corporation  
  
Plaintiff,  
  
v.  
  
AUTOZONE, INC.  
a Nevada Corporation  
  
Defendant.

Civil Action File No.  
CV-S-04-0237-RCJ-LRL

FILED  
AUG 19 2004  
CLERK OF COURT

STIPULATION AND ORDER  
(Second Request)

It is hereby stipulated by the parties and Ordered by the Court, that:

1. The SCO Group, Inc. ("SCO") shall have 60 days from the date this Stipulation and Order is entered with the Clerk to complete all relevant party and non-party discovery set-forth in Paragraph 3(b) of the Court's August 6, 2004 Order.

2. Paragraph 3 (d) of the Court's August 6, 2004 Order shall be amended as follows:

"If SCO chooses to file a motion for preliminary injunction, such preliminary injunction motion and supporting memorandum of authorities, shall be filed within 20 days of the conclusion of discovery set forth in Paragraph 3(b)."

3. Paragraph 3(e) of the Court's August 6, 2004 Order shall be amended as follows:

"In the event SCO files a motion for preliminary injunction, notwithstanding any other provision in this Order, both parties shall have 60 days from the date of filing to conduct discovery limited to the issues raised by SCO's motion for preliminary injunction.

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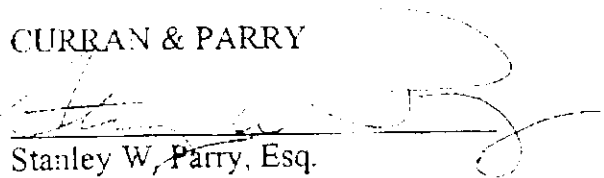
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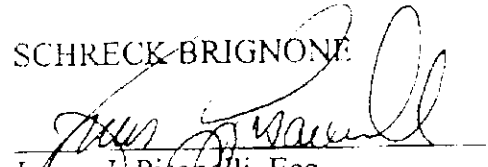
provided, however, that SCO may not conduct discovery during this period related to AutoZone's code or AutoZone's migration to and/or use of Linux. AutoZone shall then have 20 days from the completion of the 60 day discovery period to file a brief in opposition to SCO's motion for preliminary injunction. SCO shall then have 11 days following the filing of AutoZone's opposition to SCO's motion for preliminary injunction to file a reply brief."

4. All other provisions of the Court's August 6, 2004 Order shall remain in force.

Dated this 2 day of January, 2005.

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Las Vegas, Nevada 89101

ATTORNEYS FOR DEFENDANT

IT IS SO ORDERED:

  
HON. ROBERT C. JONES  
UNITED STATES DISTRICT JUDGE

DATED: 1-14-05

Recorder No. 5105  
JULIUS BLUMBERG, INC.  
NYC 10013  
© 10% P.C.W.

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA

3 THE SCO GROUP, INC. )  
4 a Delaware Corporation )

5 Plaintiff, )

6 v. )

7 AUTOZONE, INC. )  
8 a Nevada Corporation )

9 Defendant. )

Civil Action File No.  
CV-S-04-0237-RCJ-LRL

10 STIPULATION AND ORDER  
11 (Third Request)

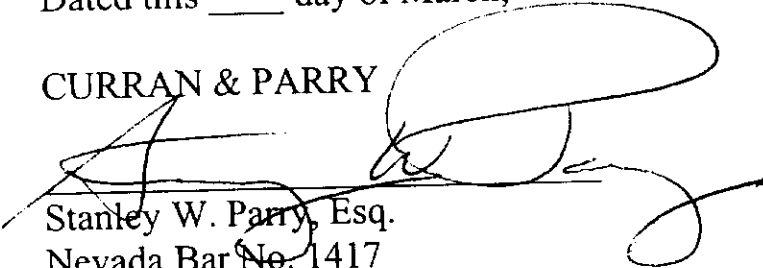
12 It is hereby stipulated by the parties and Ordered by the Court, that:

13 1. The SCO Group, Inc. ("SCO") shall have 45 days from the date this  
14 Stipulation and Order is entered with the Clerk to complete all relevant party and non-party  
15 discovery set-forth in Paragraph 3(b) of the Court's August 6, 2004 Order.

16 2. All other provisions of the Court's August 6, 2004 Order, as amended by the  
17 Court's January 14, 2005 Stipulation and Order, shall remain in force.

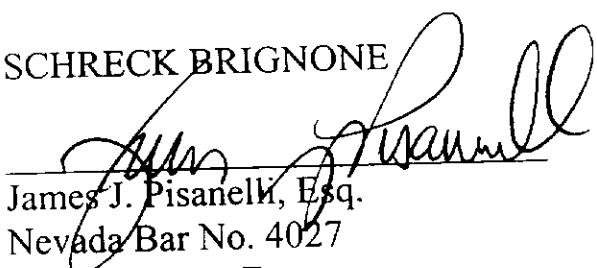
18 Dated this \_\_\_\_ day of March, 2005.

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IT IS SO ORDERED:

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HON. ROBERT C. JONES  
UNITED STATES DISTRICT JUDGE

DATE: \_\_\_\_\_