

July 18, 2005

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

Doc. 54

**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:

Pursuant to this Court's August 6, 2004 Order, The SCO Group, Inc. ("SCO") respectfully submits this 90-day status report to apprise the Court of events that have transpired since our last update (on April 18, 2005) in certain other actions.

**1. The SCO Group, Inc. v. International Business Machines Corporation,  
Case No. 2:03CV0294 DAK (D. Utah)**

Pending Motions

On July 1, 2005, Judge Kimball granted SCO's Motion to Compel IBM to Produce Samuel J. Palmisano for Deposition, denied SCO's Motion for Leave to File a Third Amended Complaint, granted IBM's Motion for Entry of Order Limiting the Scope of Its Ninth Counterclaim, and set forth an Amended Scheduling Order with a trial date of February 26, 2007. SCO's December 23, 2004 Renewed Motion to Compel Discovery is pending.

IBM's Motion for Reconsideration of the January 18, 2005 Order

As reported in our last update, IBM asked the Court to reconsider the portion of its January 18, 2005 Order requiring IBM to produce programmer-contribution information for the 3,000 individuals who made the most contributions and changes to the development of AIX and Dynix. In its motion papers, IBM also attempted to limit its other discovery obligations by arguing that it was not required to produce information concerning its Linux contributions. On April 19, 2005, United States Magistrate Judge Brooke Wells (re)ordered IBM to produce "the programmer's notes, design documents, white papers, comments and notes, contact information, specific changes made to code, and all relevant non-privileged documents from the files of the 100 individuals who made the most contributions and changes to AIX and Dynix." Order (4/19/05) at 4. Judge Wells contemplates that this preliminary production "will provide a basis for SCO to compare what is in the files of individual developers, versus what is contained in other materials produced by IBM," so that SCO can identify, "in accordance with IBM's representation," additional developers from whose files SCO would like the same discovery. Id. at 4-5.

As to IBM's attempt to limit its other discovery obligations, Judge Wells stated that "prior orders make it clear that IBM is to provide ALL non-public Linux contribution information." Id. at 5 (emphasis in original).

G2's Motion to Intervene and Order Re Unsealing of Documents

On April 28, 2005, the Court denied G2's Motion to Intervene and Motion to Unseal Court's File. However, to "minimize the risk of over-designating confidential documents," Judge Kimball ordered the parties to review previously filed documents and notify the Court "as to which documents the parties agree may be unsealed." Order (4/28/05) at 1-2.

On May 27, 2005, the parties submitted reports identifying documents they believed could be unsealed. IBM's report identified numerous documents that SCO had filed under seal only because they referenced or were materials that IBM had insisted were confidential even after SCO had repeatedly complained that they did not contain any sensitive information.

**2. The SCO Group, Inc. v. Novell, Inc., Case No. 2:04CV00139 (D. Utah)**

On June 27, 2005, Judge Kimball denied Novell's second motion to dismiss SCO's complaint, which alleges that Novell slandered SCO's title to the UNIX and UnixWare copyrights. Pursuant to an agreement of the parties, Novell has until July 29, 2005, to file its Answer and Counterclaims.

**3. Red Hat, Inc. v. The SCO Group, Inc., Case No. 03-772-SLR (D. Del.)**

As Your Honor knows, the Court in the Red Hat case has stayed that case sua sponte. Since our last letter to this Court, the parties in that case have submitted additional 90-day progress reports to the Court.

SCO will submit its next 90-day update to this Court by October 17, 2005.

Respectfully submitted,

CURRAN & PARRY

  
Stanley W. Parry, Esq.

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