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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

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THE SCO GROUP, INC.,

Plaintiff,

v.

INTERNATIONAL BUSINESS MACHINES  
CORPORATION,

Defendant.

**MEMORANDUM DECISION AND  
ORDER DENYING MOTION TO  
REOPEN CASE**

Case No. 2:03-cv-294 DN

District Judge David Nuffer

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Plaintiff The SCO Group, Inc. (SCO) has filed a motion to reopen this administratively closed case.<sup>1</sup> SCO previously requested that the court reopen the case to rule on two of many pending motions. In response, Judge Campbell issued an order<sup>2</sup> declining to reopen while an appeal was pending before the Tenth Circuit in a related case, *The SCO Group, Inc. v. Novell* (the *Novell* case).<sup>3</sup> Judge Campbell stated, however, that either party could file a motion to reopen the case after the Tenth Circuit issued its decision.

On August 30, 2011, the Tenth Circuit affirmed the judgment in the *Novell* case.<sup>4</sup> Thereafter, SCO filed the instant motion requesting that the court re-open this case in order to proceed with SCO's unfair competition and tortious interference claims against IBM.

IBM filed a response,<sup>5</sup> noting that during the course of this litigation, SCO filed a petition under the Bankruptcy Code which resulted in an automatic stay, and ultimately, the closure of

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<sup>1</sup> The SCO Group, Inc.'s Motion to Reopen the Case, docket no. 1095, filed November 4, 2011.

<sup>2</sup> Order, docket no. 1093, filed September 10, 2010.

<sup>3</sup> *SCO Group, Inc. v. Novell*, Case no. 2:04-CV-139.

<sup>4</sup> *The SCO Group, Inc. v. Novell, Inc.*, 439 Fed. Appx. 688 (10<sup>th</sup> Cir. 2011).

<sup>5</sup> IBM's Memorandum Responding to SCO's Request to Reopen (Opposing Memorandum), docket no. 1100, filed November 21, 2011.

this case.<sup>6</sup> IBM states that it has eleven counterclaims against SCO in this case which are subject to the bankruptcy stay, and which are closely related to SCO's claims against IBM.<sup>7</sup> IBM therefore opposes reopening the case until the bankruptcy stay of its counterclaims is lifted so that SCO's claims and IBM's counterclaims may be litigated together.

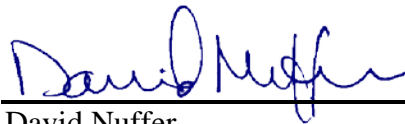
The court has reviewed the parties' submissions and finds that SCO's claims and IBM's counterclaims are inextricably intertwined. Thus, proceeding in the piecemeal manner suggested by SCO would be an inefficient use of judicial and party resources, and potentially could result in inconsistent rulings. Accordingly, the court declines to reopen the case at this time. When the bankruptcy stay is lifted, either party may file a motion to reopen the case. Until then, the case shall remain administratively closed.

#### **ORDER**

SCO's Motion to Reopen the Case<sup>8</sup> is **DENIED**. Further, the court concludes that oral argument on the motion would not be helpful. Therefore, SCO's motion for a hearing on its motion to reopen<sup>9</sup> is also **DENIED**.

Signed April 22, 2013.

BY THE COURT:



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David Nuffer  
U.S. District Judge

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<sup>6</sup> *Id.* at 1.

<sup>7</sup> *Id.* at 2.

<sup>8</sup> The SCO Group, Inc.'s Motion to Reopen the Case, docket no. 1095, filed November 4, 2011.

<sup>9</sup> The SCO Group, Inc.'s Motion for Status Conference or Hearing on Its Motion to Reopen the Case, docket no. 1108, filed March 25, 2013.